HOUSE BILL NO. 154

INTRODUCED BY R. HOLLANDSWORTH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE TERMINATION OF INCOME TAX CREDITS; REQUIRING THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE TO REVIEW TERMINATING TAX CREDITS AND MAKE A RECOMMENDATION TO THE LEGISLATURE; PROVIDING CRITERIA FOR THE COMMITTEE TO USE WHEN REVIEWING TAX CREDITS; AND AMENDING SECTIONS 5-5-227, 15-30-2301, ~~15-30-2302,~~ 15-30-2319, 15-30-2320, 15-30-2326, 15-30-2336, 15-30-2337, 15-30-2338, 15-30-2339, 15-30-2340, 15-30-2341, 15-30-2342, 15-30-2356, 15-30-2358, 15-30-2364, 15-30-2365, 15-30-2366, 15-30-2367, 15-30-2368, 15-30-2373, 15-30-2381, 15-31-125, 15-31-130, 15-31-131, 15-31-132, 15-31-133, 15-31-134, 15-31-150, 15-31-171, 15-32-109, 15-32-115, 15-32-201, 15-32-402, 15-32-503, 15-32-602, 15-32-701, 15-32-702, 15-32-703, 15-50-207, 17-6-316, AND 53-4-1103, MCA."

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

NEW SECTION. **Section 1. Tax credits to terminate -- interim committee to review.** (1) The following tax credits terminate on December 31, 2017, and, if extended, every 8 years thereafter:

~~(a) the credit allowed resident taxpayers for income taxes paid to other states or countries as provided in 15-30-2302;~~

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

~~(c)~~(B) the credit for energy-conserving expenditures provided for in 15-30-2319 and 15-32-109;

~~(d)~~(C) the elderly homeowner and renter tax credit provided for in 15-30-2337 through 15-30-2341;

~~(e)~~(D) the credit for qualified elderly care expenses provided for in 15-30-2366; ~~and~~

~~(f)~~(E) the credit for contributions to a university or college foundation or endowment provided for in 15-30-2326;

(F) THE CREDIT FOR ADDITIONAL LICENSE FEES PAID BY CONTRACTORS PROVIDED FOR IN 15-50-207; AND

(G) THE CREDIT FOR NEW OR EXPANDED INDUSTRY PROVIDED FOR IN 15-31-124 THROUGH 15-31-127.

(2) The following tax credits terminate on December 31, 2019, and, if extended, every 8 years thereafter:

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

(b) the credit for preservation of historic buildings provided for in 15-30-2342;

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

(d) the adoption tax credit provided for in 15-30-2364; ~~and~~

(e) the credit for property taxes paid on a principal residence provided for in 15-30-2336; AND

(F) THE CREDIT FOR DAY-CARE FACILITIES PROVIDED FOR IN 15-30-2365 AND 15-31-133.

(3) The following tax credits terminate on December 31, 2021, and, if extended, every 8 years thereafter:

(a) the credit for alternative energy generation provided for in Title 15, chapter 32, part 4;

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

(c) the credit for converting a motor vehicle to alternative fuel provided for in 15-30-2320 AND 15-31-137;

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

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

(f) the biodiesel or biolubricant production facility credit provided for in 15-32-702; and

(g) the biodiesel blending and storage credit provided for in 15-32-703.

(4) The following tax credits terminate on December 31, 2023, and, if extended, every 8 years thereafter:

(a) the credit for dependent care assistance provided for in 15-30-2373 AND 15-31-131;

(b) the credit for providing disability insurance for employees provided for in 15-30-2367 AND 15-31-132;

(c) the credit for infrastructure user fees provided for in 17-6-316;

(d) the credit for qualified research expenses and research payments provided for in 15-30-2358 AND 15-31-150;

(e) the credit for a new employee in an empowerment zone provided for in 15-30-2356 AND 15-31-134;

(f) the credit for health insurance premiums paid provided for in 15-30-2368 AND 15-31-130; and

(g) the credit for providing temporary emergency lodging provided for in 15-30-2381 AND 15-31-171.

(5) The revenue and transportation interim committee shall review the tax credits scheduled to terminate in the year of the next regular legislative session and make recommendations to the legislature about whether to extend the termination dates. The legislature may extend the termination dates by amending this section and the section granting the credit. THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE SHALL REVIEW THE EXPIRING CREDITS USING THE FOLLOWING CRITERIA:

(A) WHETHER THE CREDIT CHANGES TAXPAYER DECISIONS, INCLUDING WHETHER THE CREDIT REWARDS DECISIONS THAT MAY HAVE BEEN MADE REGARDLESS OF THE EXISTENCE OF THE TAX CREDIT;

(B) TO WHAT EXTENT THE CREDIT BENEFITS SOME TAXPAYERS AT THE EXPENSE OF OTHER TAXPAYERS;

(C) WHETHER THE CREDIT HAS OUT-OF-STATE BENEFICIARIES;

(D) THE TIMING OF COSTS AND BENEFITS OF THE CREDIT AND HOW LONG THE CREDIT IS EFFECTIVE;

(E) ANY ADVERSE IMPACTS OF THE CREDIT OR ITS ELIMINATION AND WHETHER THE BENEFITS OF CONTINUANCE OR ELIMINATION OUTWEIGH ADVERSE IMPACTS; AND

(F) THE EXTENT TO WHICH BENEFITS OF THE CREDIT AFFECT THE LARGER ECONOMY.

**Section 2.** Section 5-5-227, MCA, is amended to read:

**"5-5-227. Revenue and transportation interim committee -- powers and duties -- revenue estimating and use of estimates.** (1) The revenue and transportation interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the department of revenue and the department of transportation and the entities attached to the departments for administrative purposes.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

(3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(4) The legislative services division shall provide staff assistance to the committee. The committee may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state.

(5) The committee shall review tax credits scheduled to terminate as provided in [section 1]."

**Section 3.** Section 15-30-2301, MCA, is amended to read:

**"15-30-2301. Capital gains credit.** (1) An individual taxpayer is allowed a credit against the taxes imposed by 15-30-2103 in an amount equal to 1% of the taxpayer's net capital gains for tax years 2005 and 2006 and 2% of the taxpayer's net capital gains for tax years beginning after 2006, as shown on the taxpayer's individual income tax return filed pursuant to 15-30-2602. The credit allowed under this section may not exceed the taxpayer's income tax liability.

(2) This tax credit is subject to termination on December 31, 2019, and every 8 years thereafter as provided in [section 1]."

~~**Section 4.** Section 15-30-2302, MCA, is amended to read:~~

~~**"15-30-2302. Credit allowed resident taxpayers for income taxes imposed by foreign states or countries.** (1) Subject to the conditions provided in subsections (2) through (6), a resident of this state is allowed a credit against the taxes imposed by this chapter for:~~

~~(a) income taxes imposed by and paid to another state or country on income taxable under this chapter;~~

~~(b) the resident's pro rata share of any income tax imposed by and paid to another state or country by an S. corporation of which the resident is a shareholder; and~~

~~(c) the resident's distributive share, whether separately or nonseparately stated, of any income tax imposed by and paid to another state or country by a partnership of which the resident is a partner.~~

~~(2) The credit is allowed only for taxes paid to another state or country on income derived from sources within the other state or country that is taxable under the laws of the other state or country regardless of the residence or domicile of the taxpayer.~~

~~(3) The credit is not allowed if the other state or country allows residents of this state a credit against the taxes imposed by the other state or country for taxes paid or payable under this chapter.~~

~~(4) The credit is not allowed on taxes imposed by a foreign country to the extent that a credit for the taxes imposed by the foreign country was claimed for federal income tax purposes.~~

~~(5) The allowable credit must be computed by a formula prescribed by the department.~~

~~(6) For the purposes of the credit under subsections (1)(b) and (1)(c):~~

~~(a) "income tax" has the same meaning as provided in Article II of 15-1-601;~~

~~(b) the S. corporation must have made and have in effect on the last day of its tax year a valid election under subchapter S. of Chapter 1 of the Internal Revenue Code; and~~

~~(c) the credit applies only to taxes paid by the S. corporation or partnership on income taxable under this chapter.~~

~~(7) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as~~

~~provided in [section 1]."~~

**Section 4.** Section 15-30-2319, MCA, is amended to read:

**"15-30-2319. Credit for energy-conserving investments.** <u>(1)</u> There is a credit against tax liability under this chapter as provided in 15-32-109.

<u>(2) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1].</u>"

**Section 5.** Section 15-30-2320, MCA, is amended to read:

**"15-30-2320. Credit for alternative fuel motor vehicle conversion.** (1) (a) Except as provided in subsection (1)(b), an individual, a corporation, a partnership, or a small business corporation as defined in 15-30-3301 is allowed a tax credit against taxes imposed by 15-30-2103 or 15-31-101 for equipment and labor costs incurred to convert a motor vehicle licensed in Montana to operate on alternative fuel.

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

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

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

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

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

(a) natural gas;

(b) liquefied petroleum gas;

(c) liquefied natural gas;

(d) hydrogen;

(e) electricity; or

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

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

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

(5) This tax credit is subject to termination on December 31, 2021, and every 8 years thereafter as provided in [section 1]."

**Section 6.** Section 15-30-2326, MCA, is amended to read:

**"15-30-2326. Credit for contributions to university or college foundations and endowment funds.** (1) (a) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301, is allowed a tax credit against taxes imposed by 15-30-2103 or 15-31-101 in an amount equal to 10% of the aggregate amount of charitable contributions made by the taxpayer during the year to a foundation or a general endowment fund of:

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

(ii) a Montana private college;

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

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

(b) The maximum credit that a taxpayer may claim in a year under this section is $500. The credit allowed under this section may not exceed the taxpayer's income tax liability.

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

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

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

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

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

(4) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1]."

**Section 7.** Section 15-30-2336, MCA, is amended to read:

**"15-30-2336. Refundable income tax credit -- statewide equalization property tax levies on principal residence -- rules.** (1) (a) There is a credit against the tax imposed by this chapter, which is calculated by multiplying the amount of property taxes imposed and paid on a property taxpayer's principal residence under 20-9-331, 20-9-333, and 20-9-360 on $20,000 of market value on the residence times the relief multiple.

(b) As used in subsection (1)(a), the relief multiple is a number used to change the amount of tax relief allowed under this section. The relief multiple is 0. Each interim, the revenue and transportation interim committee shall, based upon actual and projected state revenue and spending and any other appropriate factors, determine if a change in the relief multiple is justified. If a change is justified, the committee shall request a bill to change the relief multiple.

(2) As used in this section, "principal residence" means a class four residential dwelling under 15-6-134 that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that is occupied by the owner for at least 7 months during the tax year.

(3) Only one claim may be made with respect to any property.

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

(5) The department may adopt rules to implement and administer this section.

<u>(6) This tax credit is subject to termination on December 31, 2019, and every 8 years thereafter as provided in [section 1].</u>"

**Section 8.** Section 15-30-2337, MCA, is amended to read:

**"15-30-2337. Residential property tax credit for elderly -- definitions.** <u>(1)</u> As used in 15-30-2337 through 15-30-2341, the following definitions apply:

~~(1)~~<u>(a)</u> "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

~~(2)~~<u>(b)</u> "Claimant" means a person who is eligible to file a claim under 15-30-2338.

~~(3)~~<u>(c)</u> "Department" means the department of revenue.

~~(4)~~<u>(d)</u> "Gross household income" means all income received by all individuals of a household while they are members of the household.

~~(5)~~(e) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of the homestead pursuant to an arm's-length transaction with the landlord.

~~(6)~~(f) "Homestead" means:

~~(a)~~(i) a single-family dwelling or unit of a multiple-unit dwelling that is subject to property taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling; or

~~(b)~~(ii) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal housing authority as provided in Title 7, chapter 15.

~~(7)~~(g) ~~(a)~~(i) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

~~(b)~~(ii) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

~~(8)~~(h) "Household income" means the amount obtained by subtracting $6,300 from gross household income.

~~(9)~~(i) ~~(a)~~(i) "Income" means, except as provided in subsection ~~(9)(b)~~ (1)(i)(ii), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

~~(i)~~(A) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;

~~(ii)~~(B) the amount of capital gains excluded from adjusted gross income;

~~(iii)~~(C) alimony;

~~(iv)~~(D) support money;

~~(v)~~(E) nontaxable strike benefits;

~~(vi)~~(F) cash public assistance and relief;

~~(vii)~~(G) interest on federal, state, county, and municipal bonds; and

~~(viii)~~(H) all payments received under federal social security except social security income paid directly to a nursing home.

~~(b)~~(ii) For the purposes of this subsection ~~(9)~~ (1)(i), income is reduced by the taxpayer's basis.

~~(10)~~(j) "Property tax billed" means taxes levied against the homestead, including special assessments and fees but excluding penalties or interest during the claim period.

~~(11)~~(k) "Rent-equivalent tax paid" means 15% of the gross rent.

(2) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1]."

**Section 9.** Section 15-30-2338, MCA, is amended to read:

**"15-30-2338. Residential property tax credit for elderly -- eligibility -- disallowance or adjustment.** (1) In order to be eligible to make a claim under 15-30-2337 through 15-30-2341, an individual:

(a) must have reached age 62 or older during the claim period for which relief is sought;

(b) must have resided in Montana for at least 9 months of that period;

(c) must have occupied one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months of the claim period; and

(d) must have less than $45,000 of gross household income.

(2) A person is not disqualified as a claimant if the person changes residences during the claim period, provided that the person occupies one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months during the claim period.

(3) A claim is disallowed if the department finds that the claimant received title to the claimant's homestead primarily for the purpose of receiving benefits under 15-30-2337 through 15-30-2341.

(4) When the landlord and tenant have not dealt at arm's length and the department judges the gross rent charged to be excessive, the department may adjust the gross rent to a reasonable amount.

(5) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1]."

**Section 10.** Section 15-30-2339, MCA, is amended to read:

**"15-30-2339. Residential property tax credit for elderly -- filing date.** (1) Except as provided in subsection (3), a claim for relief must be submitted at the same time the claimant's individual income tax return is due. For an individual not required to file a tax return, the claim must be submitted on or before April 15 of the year following the year for which relief is sought.

(2) A receipt showing property tax billed or a receipt showing gross rent paid, whichever is appropriate, must be filed with each claim. In addition, each claimant shall, at the request of the department, supply all

additional information necessary to support a claim.

(3) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

(4) In the event that an individual who would have a claim under 15-30-2337 through 15-30-2341 dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

(5) The department or an individual may revise a return and make a claim under 15-30-2337 through 15-30-2341 within 5 years from the last day prescribed for filing a claim for relief.

(6) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1]."

**Section 11.** Section 15-30-2340, MCA, is amended to read:

**"15-30-2340. Residential property tax credit for elderly -- computation of relief.** (1) The amount of the tax credit granted under the provisions of 15-30-2337 through 15-30-2341 is computed as follows:

~~(1)~~(a) In the case of a claimant who owns the homestead for which a claim is made, the credit is the amount of property tax billed less the deduction specified in subsection ~~(4)~~ (1)(d).

~~(2)~~(b) In the case of a claimant who rents the homestead for which a claim is made, the credit is the amount of rent-equivalent tax paid less the deduction specified in subsection ~~(4)~~ (1)(d).

~~(3)~~(c) In the case of a claimant who both owns and rents the homestead for which a claim is made, the credit is:

~~(a)~~(i) the amount of property tax billed on the owned portion of the homestead less the deduction specified in subsection ~~(4)~~ (1)(d); plus

~~(b)~~(ii) the amount of rent-equivalent tax paid on the rented portion of the homestead less the deduction specified in subsection ~~(4)~~ (1)(d).

~~(4)~~(d) Property tax billed and rent-equivalent tax paid are reduced according to the following schedule:

| Household income | Amount of reduction |
|---|---|
| $0 - $999 | $0 |
| $1,000 - $1,999 | $0 |
| $2,000 - $2,999 | the product of .006 times the household income |
| $3,000 - $3,999 | the product of .016 times the household income |
| $4,000 - $4,999 | the product of .024 times the household income |

| | |
|---|---|
| $5,000 - $5,999 | the product of .028 times the household income |
| $6,000 - $6,999 | the product of .032 times the household income |
| $7,000 - $7,999 | the product of .035 times the household income |
| $8,000 - $8,999 | the product of .039 times the household income |
| $9,000 - $9,999 | the product of .042 times the household income |
| $10,000 - $10,999 | the product of .045 times the household income |
| $11,000 - $11,999 | the product of .048 times the household income |
| $12,000 & over | the product of .050 times the household income |

~~(5)~~(e) For a claimant whose household income is $35,000 or more but less than $45,000, the amount of the credit is equal to the credit calculated under this section multiplied by the decimal equivalent of a percentage figure according to the following table:

| Gross household income | Percentage of credit allowed |
|---|---|
| $35,000 - $37,500 | 40% |
| $37,501 - $40,000 | 30% |
| $40,001 - $42,500 | 20% |
| $42,501 - $44,999 | 10% |
| $45,000 or more | 0% |

~~(6)~~(f) The credit granted may not exceed $1,000.

~~(7)~~(g) Relief under 15-30-2337 through 15-30-2341 is a credit against the claimant's Montana individual income tax liability for the claim period. If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant. The credit may be claimed even though the claimant has no income taxable under this chapter.

(2) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1]."

**Section 12.** Section 15-30-2341, MCA, is amended to read:

**"15-30-2341. Residential property tax credit for elderly -- limitations -- denial of claim.** (1) Only one claimant per household in a claim period under the provisions of 15-30-2337 through 15-30-2341 is entitled to relief.

(2) Except as provided in subsection (3), a claim for relief may not be allowed for any portion of property

taxes billed or rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.

(3) Except for dwellings rented from a county or municipal housing authority, a claim for relief may not be allowed on rented lands or rented dwellings that are not subject to Montana property taxes during the claim period.

(4) A person filing a false or fraudulent claim under the provisions of 15-30-2337 through 15-30-2341 must be charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or fraudulent claim has been paid, the amount paid may be recovered as any other debt owed to the state. An additional 10% may be added to the amount due as a penalty. The unpaid debt must bear interest from the date of the original payment of claim until paid, at the rate of 1% per month.

<u>(5) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1].</u>"

**Section 13.** Section 15-30-2342, MCA, is amended to read:

**"15-30-2342. Credit for preservation of historic buildings.** (1) There is allowed as a credit against the taxes imposed by 15-30-2103 a percentage of the credit allowed for qualified rehabilitation expenditures with respect to any certified historic building located in Montana as provided in 15-31-151.

(2) The credit may not be allocated between spouses unless the property is used by a small business corporation or a partnership in which they are shareholders or partners.

<u>(3) This tax credit is subject to termination on December 31, 2019, and every 8 years thereafter as provided in [section 1].</u>"

**Section 14.** Section 15-30-2356, MCA, is amended to read:

**"15-30-2356. Empowerment zone new employees -- tax credit.** (1) There is a credit for taxes due under 15-30-2103 for an employer for each new employee at a business in an empowerment zone created pursuant to Title 7, chapter 21, part 37. The taxpayer must be certified by the department of labor and industry to be eligible to receive the credit as provided in 7-21-3710.

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

| | |
|---|---|
| 1st year of employment | $500 |
| 2nd year of employment | $1,000 |
| 3rd year of employment | $1,500 |

(3) If the amount of the credit exceeds the taxpayer's liability, the credit may be carried forward 7 years and carried back 3 years. The entire amount of the tax credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(4) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1]."

**Section 15.** Section 15-30-2358, MCA, is amended to read:

**"15-30-2358. Qualified research tax credit.** (1) There is a credit against taxes otherwise due under this chapter allowable for qualified research. The credit must be computed and administered as provided in 15-31-150.

(2) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1]."

**Section 16.** Section 15-30-2364, MCA, is amended to read:

**"15-30-2364. Adoption tax credit -- limitations.** (1) There is allowed a tax credit against the tax imposed by 15-30-2103 or 15-30-2151 for the legal adoption of an eligible child for which the taxpayer qualifies for the credit for adoption expenses under section 23 of the Internal Revenue Code, 26 U.S.C. 23.

(2) The amount of the credit allowed under subsection (1) is equal to $1,000 in the tax year the adoption is final. Only one credit is allowed for each eligible child. However, married taxpayers filing separately on the same form may allocate the credit between spouses.

(3) To claim the credit under this section, the taxpayer shall:

(a) include the name, age, and federal tax identification number, if known, of the eligible child on the tax return; and

(b) provide other information as required by the department, including identification of an agent assisting with the adoption.

(4) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceed the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to the 5 succeeding tax years. The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be

used first.

(5) This tax credit is subject to termination on December 31, 2019, and every 8 years thereafter as provided in [section 1]."

**Section 17.** Section 15-30-2365, MCA, is amended to read:

**"15-30-2365. Credit for day-care facilities.** (1) There is a credit against the taxes otherwise due under this chapter allowable to an employer based on the amounts paid or incurred during the tax year by the employer to acquire, construct, reconstruct, renovate, or otherwise improve real property to be used primarily as a day-care facility. The credit must be computed in accordance with the provisions of 15-31-133.

(2) This tax credit is subject to termination on December 31, 2019, and every 8 years thereafter as provided in [section 1]."

**Section 18.** Section 15-30-2366, MCA, is amended to read:

**"15-30-2366. Credit for expense of caring for certain elderly family members.** (1) There is a credit against the tax imposed by this chapter for qualified elderly care expenses paid by an individual for the care of a qualifying family member during the taxable year.

(2) A qualifying family member is an individual who:

(a) is related to the taxpayer by blood or marriage;

(b) (i) is at least 65 years of age; or

(ii) has been determined to be disabled by the social security administration; and

(c) has a family income of $15,000 or less for an unmarried individual and $30,000 or less for a married individual for the taxable year.

(3) For purposes of this section, "family income" means, in the case of an individual who is not married, the gross income, including all nontaxable income, of the individual or, in the case of a married individual, the gross income, including all nontaxable income, of the individual and the individual's spouse.

(4) Qualified elderly care expenses include:

(a) payments by the taxpayer for home health agency services, personal-care attendant services and care in a long-term care facility, as defined in 50-5-101, that is licensed by the department of public health and human services, homemaker services, adult day care, respite care, or health care equipment and supplies:

(i) provided to the qualifying family member;

(ii) provided by an organization or individual not related to the taxpayer or the qualifying family member; and

(iii) not compensated for by insurance or otherwise;

(b) premiums paid for long-term care insurance coverage for a qualifying family member.

(5) The percentage amount of credit allowable under this section is:

(a) for a taxpayer whose adjusted gross income does not exceed $25,000, 30% of qualified elderly care expenses; or

(b) for a taxpayer whose adjusted gross income exceeds $25,000, the greater of:

(i) 20% of qualified elderly care expenses; or

(ii) 30% of qualified elderly care expenses, less 1% for each $2,000 or fraction of $2,000 by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000.

(6) The dollar amount of credit allowable under this section is:

(a) reduced by $1 for each dollar of the adjusted gross income over $50,000 for a taxpayer whose adjusted gross income exceeds $50,000;

(b) limited to $5,000 per qualifying family member in a taxable year and to $10,000 total for two or more family members in a taxable year;

(c) prorated among multiple taxpayers who each contribute to qualified elderly care expenses of the same qualified family member in a taxable year in the same proportion that their contributions bear to the total qualified elderly care expenses paid by those taxpayers for that qualified family member.

(7) A deduction or credit is not allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under this section. The credit allowed under this section may not be claimed as a carryback or carryforward and may not be refunded if the taxpayer has no tax liability.

(8) In the case of a married individual filing a separate return, the percentage amount of credit under subsection (5) and the dollar amount of credit under subsection (6) are limited to one-half of the figures indicated in those subsections.

<u>(9) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1].</u>"

**Section 19.** Section 15-30-2367, MCA, is amended to read:

**"15-30-2367. Tax credit for providing disability insurance for employees.** <u>(1)</u> There is a credit against the taxes otherwise due under this chapter allowable to an employer for the amount of premiums for disability insurance paid by the employer for the employer's employees. The tax credit must be computed in accordance with the provisions of 15-31-132.

<u>(2) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1].</u>"

**Section 20.** Section 15-30-2368, MCA, is amended to read:

**"15-30-2368. Tax credit for health insurance premiums paid -- eligible small employers -- pass-through entities.** (1) There is a tax credit, determined under Title 33, chapter 22, part 20, for eligible small employers who are individuals against the taxes imposed in 15-30-2103 for qualifying premiums paid by the eligible small employer for coverage of eligible employees and eligible employees' spouses and dependents under a group health plan subject to Title 33, chapter 22, part 20.

(2) If the employer is an S. corporation, the shareholders may claim a pro rata share of the tax credit. If the employer is a partnership, the credit may be claimed by the partners in the same proportion used to report the partnership's income or loss for Montana income tax purposes.

<u>(3) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1].</u>"

**Section 21.** Section 15-30-2373, MCA, is amended to read:

**"15-30-2373. Credit for dependent care assistance and referral services.** (1) There is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the tax year by the employer for dependent care assistance. The credit must be computed in accordance with the provisions of 15-31-131.

(2) In addition to the credit allowed under subsection (1), there is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the tax year by the employer to provide information and referral services to assist employees of the employer employed within this state to obtain dependent care. The credit must be computed in accordance with the provisions of 15-31-131.

<u>(3) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1].</u>"

**Section 22.** Section 15-30-2381, MCA, is amended to read:

**"15-30-2381. Tax credit for providing temporary emergency lodging.** (1) There is a credit for taxes otherwise due under this chapter for participation in the temporary emergency lodging program established in 50-51-114.

(2) The tax credit is:

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

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

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

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

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

<u>(6) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1].</u>"

<u>**SECTION 23.** SECTION 15-31-125, MCA, IS AMENDED TO READ:</u>

**"15-31-125. Determination of tax credit.** <u>(1)</u> A new or expanding manufacturing corporation may receive an income tax credit based on a percentage of wages paid its new employees within this state for a period of 3 years as provided in this section. For the first 3 years of operation of a new corporation or the first 3 years of expansion of an expanding corporation, a credit of 1% of the total new wages paid in this state, as wages are defined in 39-51-201, may be allowed. In determining total wages for an expanding corporation, only those wages paid in support of the expansion are considered in ascertaining the credit. The payroll and number of jobs of the corporation in the 12-month period immediately preceding the expansion are averaged to determine eligibility for the credit.

<u>(2) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1].</u>"

<u>**SECTION 24.** SECTION 15-31-130, MCA, IS AMENDED TO READ:</u>

**"15-31-130. Tax credit for health insurance premiums paid -- eligible small employers --**

**corporations.** (1) There is a tax credit, as determined under Title 33, chapter 22, part 20, for eligible small employers against the taxes imposed in 15-31-101 and 15-31-502 for qualifying premiums paid by the eligible small employer for coverage of eligible employees and eligible employees' spouses and dependents under a group health plan subject to Title 33, chapter 22, part 20.

(2) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1]."

**SECTION 25.** SECTION 15-31-131, MCA, IS AMENDED TO READ:

**"15-31-131. Credit for dependent care assistance and referral services.** (1) There is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the tax year by the employer for dependent care assistance actually provided to or on behalf of an employee if the assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets the requirements of section 129(d)(2) through (6) of the Internal Revenue Code, 26 U.S.C. 129(d)(2) through (d)(6).

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

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

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

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

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

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

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

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

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

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

(7) The amount upon which the credit allowed under subsection (1) is based may not be included in the gross income of the employee to whom the dependent care assistance is provided. However, the amount excluded from the income of an employee under this section may not exceed the limitations provided in section 129(b) of the Internal Revenue Code, 26 U.S.C. 129(b). For purposes of Title 15, chapter 30, part 25, with respect to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded under this subsection. Amounts excluded under this subsection do not qualify as expenses for which a deduction is allowed to the employee under 15-30-2131.

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

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

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

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

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

(11) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as

provided in [section 1]."

**SECTION 26.** SECTION 15-31-132, MCA, IS AMENDED TO READ:

**"15-31-132. Tax credit for providing disability insurance for employees.** An employer is entitled to a credit against taxes otherwise due under this chapter for the amount of premiums for disability insurance paid by the employer for the employer's employees, subject to the following requirements:

(1) The tax credit is available only to employers who:

(a) have been in business in Montana for at least 12 months; and

(b) employ 20 or fewer employees working at least 20 hours a week.

(2) At least 50% of each employee's insurance premium is paid by the employer.

(3) Subject to the provisions of subsection (4), an employer is entitled to a tax credit for a maximum of 10 employees, computed as follows:

(a) a credit of $25 a month for each employee if the employer pays 100% of the employee's premium; or

(b) a credit equal to $25 a month multiplied by the percentage of the employee's premium paid by the employer for each employee if the employer pays less than 100% of the employee's premium.

(4) The credit may not exceed 50% of the premium cost for each employee and may not be claimed for a period of more than 36 consecutive months. A tax credit may not be granted to an employer or the employer's successor within 10 years of the last consecutive credit claimed.

(5) The credit allowed under this section may not be claimed as a carryback or carryforward and may not be refunded if the employer has no tax liability.

(6) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1]."

**SECTION 27.** SECTION 15-31-133, MCA, IS AMENDED TO READ:

**"15-31-133. Credit for day-care facilities.** (1) There is a credit against the taxes otherwise due under this chapter that is allowable to an employer based on the amounts paid or incurred during the tax year by the employer to acquire, construct, reconstruct, renovate, or otherwise improve real property so that the property may be used primarily as a day-care facility. Subject to the conditions of this section, the amount of the credit is equal to:

(a) the amount of the day-care facility credit determined under subsection (2); and

(b) any day-care facility tax credit carryforwards.

(2) The credit allowed under subsection (1) is the lesser of:

(a) $2,500, multiplied by the number of dependents that the day-care facility is designed to accommodate at the end of the first tax year for which credit is first claimed;

(b) 15% of the cost of the acquisition, construction, reconstruction, renovation, or other improvement; or

(c) $50,000.

(3) The amounts paid or incurred by the employer for the acquisition, construction, reconstruction, renovation, or other improvement to real property that qualify for the credit may be paid or incurred either:

(a) to another person to be used to acquire, construct, reconstruct, renovate, or otherwise improve real property that is operated as a day-care facility and with whom the employer contracts to make day-care assistance payments, and the payments are excluded, or partially excluded, under 26 U.S.C. 129 from the income of the employee for federal tax purposes; or

(b) to acquire, construct, reconstruct, renovate, or otherwise improve real property that is operated by the employer, or a combination of employers, to provide day-care assistance to the employees of the employer under a program or programs, and the program or programs are excluded, or partially excluded, under 26 U.S.C. 129 from the income of the employee for federal tax purposes.

(4) To qualify for the credit allowed under subsection (1), the following conditions apply:

(a) The property must be in actual use in Montana as a day-care facility on the last day of the tax year for which the credit or any carryforward amount of the credit is claimed.

(b) Day-care services assisted by the employer must take place on the property on the last day of the tax year for which the credit or any carryforward amount of the credit is claimed.

(c) The person operating the day-care facility must hold a current license or registration certificate under Title 52, chapter 2, part 7, on the last day of the tax year for which the credit under subsection (1) is claimed.

(d) The day-care facility must accommodate six or more children.

(e) The day-care facility must be placed in operation before January 1, 2006.

(5) The total amount of the costs upon which the credit allowed under subsection (1) is based and the total amount of the credit must be determined by the employer, subject to rules adopted by the department, during the tax year in which the property acquired, constructed, reconstructed, renovated, or otherwise improved is first

placed in operation as a day-care facility.

(6) The amount paid or incurred by the employer upon which the credit allowed under subsection (1) is based must be excluded from the income of an employee subject to the limitations provided in 26 U.S.C. 129(b).

(7) The taxpayer is allowed one-tenth of the total credit determined under subsection (2) in the first tax year in which the taxpayer may claim the credit and one-tenth of the total credit is allowed in each succeeding tax year, not to exceed 9 tax years.

(8) Except as provided in subsections (4)(a) and (4)(b), if the tax credit allowed under subsection (1) exceeds the taxpayer's liability, the credit may be carried forward to the succeeding tax year or years, except that a carryforward amount is not allowed beyond the period allowed for the credit as provided in subsection (7).

(9) The provisions of this section do not affect the computation of depreciation or basis for a day-care facility. However, if the credit allowed under this section is claimed, the amount of any deduction that is allowed or allowable under this chapter for the amounts paid or incurred, or upon which the credit is based, must be reduced by the dollar amount of the credit allowed.

(10) The department shall require evidence from the taxpayer that the person operating the day-care facility on the date that the taxpayer's tax year ends is licensed or registered to operate the facility. The evidence must accompany the tax return in which any amount of tax credit allowed under this section is claimed. If the evidence is not furnished, the credit is not allowed for the tax year for which the evidence is not furnished. Upon request of the department, the department of public health and human services shall report to the department on whether the day-care facility was operated as a licensed or registered day-care facility on the last day of the tax year of the person claiming the credit.

(11) The employer must meet any other requirements or furnish any information to the department that the department requires under rules adopted by the department to carry out the purposes of this section.

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

(13) For purposes of the credit allowed under subsection (1):

(a) the definitions and special rules contained in 26 U.S.C. 129(e) apply to the extent applicable; and

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

(14) This tax credit is subject to termination on December 31, 2019, and every 8 years thereafter as provided in [section 1]."

**SECTION 28.** SECTION 15-31-134, MCA, IS AMENDED TO READ:

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

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

| | |
|---|---|
| 1st year of employment | $500 |
| 2nd year of employment | $1,000 |
| 3rd year of employment | $1,500 |

(3) If the amount of the credit exceeds the taxpayer's liability, the credit may be carried forward 7 years and carried back 3 years. The entire amount of the tax credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

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

(5) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1]."

**SECTION 29.** SECTION 15-31-150, MCA, IS AMENDED TO READ:

**"15-31-150. Credit for research expenses and research payments.** (1) (a) There is a credit against taxes otherwise due under this chapter for increases in qualified research expense and basic research payments for research conducted in Montana. Except as provided in this section, the credit must be determined in accordance with section 41 of the Internal Revenue Code, 26 U.S.C. 41, as that section read on July 1, 1996, or as subsequently amended.

(b) For purposes of the credit, the:

(i) applicable percentage specified in 26 U.S.C. 41(a) is 5%;

(ii) election of the alternative incremental credit allowed under 26 U.S.C. 41(c)(4) does not apply;

(iii) special rules in 26 U.S.C. 41(g) do not apply; and

(iv) termination date provided for in 26 U.S.C. 41(h)(1)(B) does not apply.

(2) The credit allowed under this section for a tax year may not exceed the tax liability under chapter 30 or 31. A credit may not be refunded if a taxpayer has tax liability less than the amount of the credit.

(3) The credit allowed under this section may be used as a carryback against taxes imposed under chapter 30 or 31 for the 2 preceding tax years and may be used as a carryforward against taxes imposed by chapter 30 or 31 for the 15 succeeding tax years. The entire amount of the credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(4) A taxpayer may not claim a current year credit under this section after December 31, 2010. However, any unused credit may be carried back or forward as provided in subsection (3).

(5) A corporation, an individual, a small business corporation, a partnership, a limited liability partnership, or a limited liability company qualifies for the credit under this section. If the credit is claimed by a small business corporation, a partnership, a limited liability partnership, or a limited liability company, the credit must be attributed to the individual shareholders, partners, members, or managers in the same proportion used to report income or loss for state tax purposes. The allocations in 26 U.S.C. 41(f) do not apply to this section.

(6) For purposes of calculating the credit, the following definitions apply:

(a) "Gross receipts" means:

(i) for a corporation that has income from business activity that is taxable only within the state, all gross sales less returns of the corporation for the tax year; and

(ii) for a corporation that has income from business activity that is taxable both within and outside of the state, only the gross sales less returns of the corporation apportioned to Montana for the tax year.

(b) "Qualified research" has the meaning provided in 26 U.S.C. 41(d), but is limited to research conducted in Montana.

(c) "Qualified research expenses" has the meaning provided in 26 U.S.C. 41(b), but includes only the sum of amounts paid or incurred by the taxpayer for research conducted in Montana.

(d) "Supplies" has the meaning provided in 26 U.S.C. 41(b)(2)(C), but includes only those supplies used in the conduct of qualified research in Montana.

(e) (i) "Wages" has the meaning provided in 39-51-201, except as provided in subsection (6)(e)(ii) of this section, and includes only those wages paid or incurred for an employee for qualified services performed by the employee in Montana.

(ii) Notwithstanding the exception to the definition of wages in 39-51-201(24)(b)(v), for a self-employed individual and an owner-employee, the term includes the income, as defined in 26 U.S.C. 401(c)(2), of the employee.

(7) The department shall adopt rules, prepare forms, maintain records, and perform other duties necessary to implement this section. In adopting rules to implement this section, the department shall conform the rules to regulations prescribed by the secretary of the treasury under 26 U.S.C. 41 except to the extent that the regulations need to be modified to conform to this section.

(8) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1]."

**SECTION 30.** SECTION 15-31-171, MCA, IS AMENDED TO READ:

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

(2) The tax credit is:

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

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

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

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

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

(6) This tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1]."

**Section 31.** Section 15-32-109, MCA, is amended to read:

**"15-32-109. Credit for energy-conserving expenditures.** (1) Subject to the restrictions of subsection (2), a resident individual taxpayer may take a credit against the taxpayer's tax liability under chapter 30 for 25% of the taxpayer's expenditure for a capital investment in the physical attributes of a building or the installation of a water, heating, or cooling system in the building, so long as either type of investment is for an energy conservation purpose, in an amount not to exceed $500.

(2) The credit under subsection (1):

(a) may not exceed the taxpayer's tax liability; and

(b) is subject to the provisions of 15-32-104.

(3) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1]."

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

**"15-32-115. Credit for geothermal system -- to whom available -- eligible costs -- limitations.** (1) A resident individual taxpayer or a person constructing a new residence who completes installation of a geothermal system, as defined in 15-32-102, in the taxpayer's principal dwelling or in a residence constructed by the taxpayer is entitled to claim a tax credit against the taxpayer's tax liability under chapter 30 or 31 for a portion of the installation costs of the system, not to exceed $1,500. Only one credit may be claimed for a residence. The amount of the credit not used in the year in which the installation is made may be carried forward against taxes imposed under chapter 30 or 31 for the 7 succeeding tax years. The entire amount of the credit not used in the year that it was earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year. A credit is not allowed under this section for expenditures claimed as a deduction under 15-32-103.

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

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

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

(c) ground source or ground coupled heat pumps;

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

(e) design and labor.

(3) This tax credit is subject to termination on December 31, 2019, and every 8 years thereafter as provided in [section 1]."

**Section 33.** Section 15-32-201, MCA, is amended to read:

**"15-32-201. Amount of credit -- to whom available.** (1) A resident individual taxpayer who completes installation of an energy system using a recognized nonfossil form of energy generation, as defined in 15-32-102, to provide heat for the taxpayer's principal dwelling is allowed to claim a tax credit in an amount equal to the cost of the system, including installation costs, less grants received, not to exceed $500, against the income tax liability imposed against the taxpayer pursuant to chapter 30.

(2) A resident individual taxpayer who completes installation of an energy system using a low-emission wood or biomass combustion device, as defined in 15-32-102, to provide heat for the taxpayer's principal dwelling is allowed to claim a tax credit in an amount equal to the cost of the system, including the installation costs, not to exceed $500, against the income tax liability imposed against the taxpayer pursuant to Title 15, chapter 30.

<u>(3) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1].</u>"

**Section 34.** Section 15-32-402, MCA, is amended to read:

**"15-32-402. Commercial or net metering system investment credit -- alternative energy systems.** (1) An individual, corporation, partnership, or small business corporation as defined in 15-30-3301 that makes an investment of $5,000 or more in property that is depreciable under the Internal Revenue Code for a commercial system or a net metering system, as defined in 69-8-103, that is located in Montana and that generates energy by means of an alternative renewable energy source, as defined in 15-6-225, is entitled to a tax credit against taxes imposed by 15-30-2103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

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

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

(c) the alternative energy generating equipment in which the investment for which a credit is being claimed was made.

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

(a) generating equipment;

(b) safety devices and storage components;

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

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

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

<u>(4) This tax credit is subject to termination on December 31, 2021, and every 8 years thereafter as provided in [section 1].</u>"

**Section 35.** Section 15-32-503, MCA, is amended to read:

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

(a) surveying by geophysical or geochemical methods;

(b) drilling exploration holes;

(c) conducting underground exploration;

(d) surface trenching and bulk sampling; or

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

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

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

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

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

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

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

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

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

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

<u>(4) This tax credit is subject to termination on December 31, 2021, and every 8 years thereafter as provided in [section 1].</u>"

**Section 36.** Section 15-32-602, MCA, is amended to read:

**"15-32-602. Amount and duration of credit -- how claimed.** (1) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for investments in depreciable property to collect or process reclaimable material or to manufacture a product from reclaimed material, if the taxpayer qualifies under 15-32-603.

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

was purchased.

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

(a) 25% of the cost of the property on the first $250,000 invested;

(b) 15% of the cost of the property on the next $250,000 invested; and

(c) 5% of the cost of the property on the next $500,000 invested.

(4) A credit may not be claimed for investments in depreciable property in excess of $1 million.

<u>(5) This tax credit is subject to termination on December 31, 2021, and every 8 years thereafter as provided in [section 1].</u>"

**Section 37.** Section 15-32-701, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) This tax credit is subject to termination on December 31, 2021, and every 8 years thereafter as provided in [section 1]."

**Section 38.** Section 15-32-702, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

liable for the total amount of the credit in the event of recapture.

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

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

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

(a) "Biodiesel" has the meaning provided in 15-70-301.

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

<u>(10) This tax credit is subject to termination on December 31, 2021, and every 8 years thereafter as provided in [section 1].</u>"

**Section 39.** Section 15-32-703, MCA, is amended to read:

**"15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim committee.** (1) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for the costs of investments in depreciable property used for storing or blending biodiesel with petroleum diesel for sale.

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) As used in this section, "biodiesel" has the meaning provided in 15-70-301.

(10) The department shall report to the revenue and transportation interim committee at least once each

year regarding the number and type of taxpayers claiming the credit under this section, the total amount of the credit claimed, and the department's cost associated with administering the credit.

(11) This tax credit is subject to termination on December 31, 2021, and every 8 years thereafter as provided in [section 1]."

**SECTION 40.** SECTION 15-50-207, MCA, IS AMENDED TO READ:

**"15-50-207. Credit against other taxes -- credit for personal property taxes and certain fees.** (1) (a) The additional license fees withheld or otherwise paid as provided in this chapter may be used as a credit on the contractor's corporate income tax provided for in chapter 31 of this title or on the contractor's income tax provided for in chapter 30, depending upon the type of tax the contractor is required to pay under the laws of the state.

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

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

(3) This tax credit is subject to termination on December 31, 2017, and every 8 years thereafter as provided in [section 1]."

**Section 41.** Section 17-6-316, MCA, is amended to read:

**"17-6-316. Economic development loan -- infrastructure tax credit.** (1) A loan made pursuant to 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288(4), such as water systems, sewer systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of a business in Montana. The loan must be made to a local government that will create the necessary infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to the business creating the jobs.

(2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received pursuant to subsection (3) of this section must be returned to the state.

(3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2) and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for the portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years. <u>The tax credit is subject to termination on December 31, 2023, and every 8 years thereafter as provided in [section 1].</u>"

**Section 42.** Section 53-4-1103, MCA, is amended to read:

**"53-4-1103. Definitions.** For purposes of this part, the following definitions apply:

(1) "Comprehensive" means health insurance having benefits at least as extensive as those provided under the children's health insurance program.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including children already enrolled in the programs described in 53-4-1104(2).

(4) (a) "Enrollment partner" means an organization or individual approved by the department to assist in enrolling eligible children in the plan.

(b) An enrollment partner may be but is not limited to:

(i) a licensed health care provider;

(ii) a school;

(iii) a community-based organization; or

(iv) a government agency.

(5) "Health coverage" means a program administered by the department or a disability insurance plan, referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

(6) "Income" has the meaning provided in 15-30-2337~~(9)(a)~~(1)(i)(i).

(7) "Plan" means the healthy Montana kids plan established in 53-4-1104.

(8) "Premium" means the amount of money charged to provide coverage under a public or private health coverage plan.

(9) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."

NEW SECTION. **SECTION 43. TRANSITION -- CARRYOVER OF CREDITS.** A CREDIT ALLOWED A TAXPAYER PRIOR TO THE TERMINATION DATE PROVIDED FOR IN [THIS ACT] UNDER THE PROVISIONS OF LAW IN EFFECT PRIOR TO THE TERMINATION DATE THAT MAY BE CARRIED FORWARD FOR A SPECIFIED NUMBER OF YEARS IS NOT IMPAIRED BY [THIS ACT], AND A TAXPAYER MAY CLAIM THE CREDIT FOR THE TAXES SPECIFIED FOR THE PERIOD ESTABLISHED AT THE TIME THE CREDIT WAS FIRST ALLOWED. THIS SECTION APPLIES TO ALL TAX CREDITS THAT ARE TERMINATED AS PROVIDED IN [THIS ACT], INCLUDING BUT NOT LIMITED TO 15-30-2342, 15-30-2364, 15-30-2373, 15-31-131, 15-31-133, 15-31-134, 15-31-150, 15-31-151, 15-32-115, 15-32-202, 15-32-404, 15-32-506, 15-32-507, 15-32-701, 15-32-702, 15-32-703, 15-50-207, AND 17-6-316.

NEW SECTION. **Section 44. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section 1].

- END -