

SENATE BILL NO. 361

INTRODUCED BY B. TUTVEDT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE NAMES OF THE "CORPORATION LICENSE TAX"
5 AND THE "CORPORATION INCOME TAX"; CHANGING THE NAME OF THE "CORPORATION LICENSE TAX"
6 TO THE "CORPORATE INCOME TAX"; CHANGING THE NAME OF THE "CORPORATION INCOME TAX" TO
7 THE "ALTERNATIVE CORPORATE INCOME TAX"; AMENDING SECTIONS 5-4-104, 15-1-121, 15-1-205,
8 15-6-138, 15-30-2110, 15-30-2328, 15-30-3301, 15-30-3312, 15-30-3313, 15-31-101, 15-31-102, 15-31-111,
9 15-31-112, 15-31-113, 15-31-114, 15-31-115, 15-31-117, 15-31-125, 15-31-143, 15-31-161, 15-31-401,
10 15-31-402, 15-31-404, 15-31-406, 15-31-511, 15-31-522, 15-31-523, 15-31-531, 15-31-543, 15-31-551,
11 15-32-107, 15-50-207, 15-68-815, 20-9-630, 33-17-407, AND 33-27-103, MCA; AND PROVIDING AN
12 APPLICABILITY DATE."

13

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

15

16 **Section 1.** Section 5-4-104, MCA, is amended to read:

17 **"5-4-104. Tax expenditure criteria -- legislation.** (1) The legislature recognizes the value of relevant
18 information when making determinations regarding tax policy and tax expenditures. The legislature also
19 recognizes the need to reevaluate tax expenditures after enactment. In consideration of these policy goals, the
20 legislature encourages a policy of providing an explicit purpose of a tax expenditure and termination dates of no
21 more than 6 years in any legislation creating, expanding, or continuing a tax expenditure.

22 (2) As used in this section, the term "tax expenditures" means those revenue losses attributable to
23 provisions of Montana tax laws that allow a special exclusion, exemption, or deduction from gross income or that
24 provide a special credit, a preferential rate of tax, or a deferral of tax liability including:

25 (a) personal income and ~~corporation license~~ corporate income tax exemptions;

26 (b) property tax exemptions for which application to the department is necessary;

27 (c) deferral of income;

28 (d) credits allowed against Montana personal income tax or Montana ~~corporation license~~ corporate
29 income tax;

30 (e) deductions from income; and

1 (f) any other identifiable preferential treatment of income or property."

2

3 **Section 2.** Section 15-1-121, MCA, is amended to read:

4 **"15-1-121. Entitlement share payment -- purpose -- appropriation.** (1) As described in 15-1-120(3),
5 each local government is entitled to an annual amount that is the replacement for revenue received by local
6 governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant
7 to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later
8 enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other
9 revenue in the state treasury with each local government's share. The reimbursement under this section is
10 provided by direct payment from the state treasury rather than the ad hoc system that offset certain state
11 payments with local government collections due the state and reimbursements made by percentage splits, with
12 a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending
13 a portion to other local governments.

14 (2) The sources of dedicated revenue that were relinquished by local governments in exchange for an
15 entitlement share of the state general fund were:

16 (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter
17 584, Laws of 1999;

18 (b) vehicle, boat, and aircraft taxes and fees pursuant to:

19 (i) Title 23, chapter 2, part 5;

20 (ii) Title 23, chapter 2, part 6;

21 (iii) Title 23, chapter 2, part 8;

22 (iv) 61-3-317;

23 (v) 61-3-321;

24 (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment
25 of 61-3-509 in 2001;

26 (vii) Title 61, chapter 3, part 7;

27 (viii) 5% of the fees collected under 61-10-122;

28 (ix) 61-10-130;

29 (x) 61-10-148; and

30 (xi) 67-3-205;

- 1 (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
2 (d) district court fees pursuant to:
3 (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
4 (ii) 25-1-202;
5 (iii) 25-9-506; and
6 (iv) 27-9-103;
7 (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
8 (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
9 (g) all beer, liquor, and wine taxes pursuant to:
10 (i) 16-1-404;
11 (ii) 16-1-406; and
12 (iii) 16-1-411;
13 (h) late filing fees pursuant to 61-3-220;
14 (i) title and registration fees pursuant to 61-3-203;
15 (j) veterans' cemetery license plate fees pursuant to 61-3-459;
16 (k) county personalized license plate fees pursuant to 61-3-406;
17 (l) special mobile equipment fees pursuant to 61-3-431;
18 (m) single movement permit fees pursuant to 61-4-310;
19 (n) state aeronautics fees pursuant to 67-3-101; and
20 (o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,
21 chapter 1, part 5.

22 (3) (a) Except as provided in subsection (3)(b), the total amount received by each local government in
23 fiscal year 2010 as an entitlement share payment under this section is the base component for the fiscal year
24 2011 distribution, and in each subsequent year the prior year entitlement share payment, including any
25 reimbursement payments received pursuant to subsection (7), is each local government's base component. The
26 sum of all local governments' base components is the fiscal year entitlement share pool.

27 (b) The total amount received by each local government in fiscal year 2011 as an entitlement share
28 payment under this section is the base component for fiscal year 2012 and 2013 distributions, and in each
29 subsequent year the prior year entitlement share payment, including any reimbursement payments received
30 pursuant to subsection (7), is each local government's base component. The sum of all local governments' base

1 components is the fiscal year entitlement share pool.

2 (4) (a) With the exception of fiscal years 2012 and 2013, the base entitlement share pool must be
3 increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount
4 determined through the application of annual growth rates is the entitlement share pool for each fiscal year, with
5 the exception of fiscal years 2012 and 2013.

6 (b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share
7 pool for the current year in the following manner:

8 (i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of
9 state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the
10 statewide budgeting and accounting system. The first factor is the sum of the revenue for the first and second
11 previous completed fiscal years received from the sources referred to in subsection (2)(b), (2)(c), and (2)(g)
12 divided by the sum of the revenue for the second and third previous completed fiscal years received from the
13 same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous
14 completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and ~~corporation~~
15 corporate income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and
16 third previous completed fiscal years received from the same sources multiplied by 0.25.

17 (ii) Except as provided in subsection (4)(b)(iii), the entitlement share growth rate is the lesser of:

18 (A) the sum of the first factor plus the second factor; or

19 (B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

20 (iii) In no instance can the entitlement growth factor be less than 1. The entitlement share growth rate is
21 applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year
22 payment.

23 (5) As used in this section, "local government" means a county, a consolidated local government, an
24 incorporated city, and an incorporated town. A local government does not include a tax increment financing
25 district provided for in subsection (8). The county or consolidated local government is responsible for making an
26 allocation from the county's or consolidated local government's share of the entitlement share pool to each special
27 district within the county or consolidated local government in a manner that reasonably reflects each special
28 district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each
29 special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

30 (6) (a) The entitlement share pools calculated in this section, the amounts determined under 15-1-123(2)

1 for local governments, the funding provided for in subsection (8) of this section, and the amounts determined
2 under 15-1-123(4) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from
3 the general fund to the department for distribution to local governments. Except for the distribution made under
4 15-1-123(2)(b), the distributions must be made on a quarterly basis.

5 (b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year
6 and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be
7 calculated separately for:

8 (A) counties;

9 (B) consolidated local governments; and

10 (C) incorporated cities and towns.

11 (ii) In each fiscal year, the growth amount for counties must be allocated as follows:

12 (A) 50% of the growth amount must be allocated based upon each county's percentage of the prior fiscal
13 year entitlement share pool for all counties; and

14 (B) 50% of the growth amount must be allocated based upon the percentage that each county's
15 population bears to the state population not residing within consolidated local governments as determined by the
16 latest interim year population estimates from the Montana department of commerce as supplied by the United
17 States bureau of the census.

18 (iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as
19 follows:

20 (A) 50% of the growth amount must be allocated based upon each consolidated local government's
21 percentage of the prior fiscal year entitlement share pool for all consolidated local governments; and

22 (B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local
23 government's population bears to the state's total population residing within consolidated local governments as
24 determined by the latest interim year population estimates from the Montana department of commerce as
25 supplied by the United States bureau of the census.

26 (iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

27 (A) 50% of the growth amount must be allocated based upon each incorporated city's or town's
28 percentage of the prior fiscal year entitlement share pool for all incorporated cities and towns; and

29 (B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's
30 population bears to the state's total population residing within incorporated cities and towns as determined by the

1 latest interim year population estimates from the Montana department of commerce as supplied by the United
 2 States bureau of the census.

3 (v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments
 4 made under subsection (7) are applied is to be distributed to each local government in the same manner as the
 5 entitlement share pool was distributed in the prior fiscal year.

6 (7) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section,
 7 the department shall determine the reimbursement amount as provided in the enactment and add the appropriate
 8 amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal
 9 year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool.
 10 The ratio of each local government's distribution from the entitlement share pool must be recomputed to
 11 determine each local government's ratio to be used in the subsequent year's distribution determination under
 12 subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

13 (8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(4), if a
 14 tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax
 15 increment financing district is not entitled to any funding. If a tax increment financing district referred to in
 16 subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

17 (b) Except for the reimbursement made under 15-1-123(4)(b), one-half of the payments provided for in
 18 this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to
 19 subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

20	Deer Lodge	TIF District 1	\$2,833
21	Deer Lodge	TIF District 2	2,813
22	Flathead	Kalispell - District 2	4,638
23	Flathead	Kalispell - District 3	37,231
24	Flathead	Whitefish District	148,194
25	Gallatin	Bozeman - downtown	31,158
26	Missoula	Missoula - 1-1C	250,279
27	Missoula	Missoula - 4-1C	30,009
28	Silver Bow	Butte - uptown	255,421

29 (9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local
 30 governments do not include revenue received from tax increment financing districts, from countywide

1 transportation block grants, or from countywide retirement block grants.

2 (10) When there has been an underpayment of a local government's share of the entitlement share pool,
3 the department shall distribute the difference between the underpayment and the correct amount of the
4 entitlement share. When there has been an overpayment of a local government's entitlement share, the local
5 government shall remit the overpaid amount to the department.

6 (11) A local government may appeal the department's estimation of the base component, the entitlement
7 share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform
8 dispute review procedure in 15-1-211.

9 (12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by
10 a local government in accordance with Title 17, chapter 4, part 1."

11

12 **Section 3.** Section 15-1-205, MCA, is amended to read:

13 **"15-1-205. Biennial report -- contents.** (1) The department shall transmit to the governor 20 days
14 before the meeting of the legislature and make available to the legislature and the public a report of the
15 department showing all the taxable property of the state, counties, and cities and its value. The department shall
16 follow the provisions of 5-11-210 in preparing the report for the legislature.

17 (2) The report must also include the statewide average effective tax rate of taxable property in each class
18 of property. The department may determine whether an appropriate effective tax rate may be derived for net
19 proceeds, gross proceeds, agricultural land, and forest land.

20 (3) The report or supplements to the report must also include:

21 (a) the gross dollar amount of revenue loss attributable to:

22 (i) personal income and ~~corporation license~~ corporate income tax exemptions;

23 (ii) property tax exemptions for which application to the department is necessary;

24 (iii) deferral of income;

25 (iv) credits allowed against Montana personal income tax or Montana ~~corporation license~~ corporate
26 income tax, reported separately;

27 (v) deductions from income; and

28 (vi) any other identifiable preferential treatment of income or property;

29 (b) any change in tax revenue of the state or any unit of local government attributable to a change in
30 federal tax law; and

1 (c) any change in the revenue of any unit of local government attributable to a change in state tax law;

2 (d) the year of enactment and provision of the Montana Code Annotated granting the tax benefits in
3 subsection (3)(a); and

4 (e) the number of taxpayers benefiting from each of the tax provisions listed in subsection (3)(a).

5 (4) A distributional analysis of the data described in subsection (3) must be related to the income level
6 and age of the taxpayer whenever the information is available.

7 (5) (a) When reporting the data described in subsection (3)(a), the department shall identify any known
8 purpose of the preferential treatment.

9 (b) Based upon the purpose of the preferential treatment, the department shall outline the available data
10 necessary to determine the effectiveness of the preferential treatment.

11 (6) In reporting the data described in subsection (3), the department shall report any comparable data,
12 if available, from Wyoming, Idaho, North Dakota, and South Dakota and from any other state the department may
13 choose.

14 (7) The department shall identify in a separate section of the report any changes that have been made
15 or that are contemplated in property appraisal or assessment.

16 (8) The department may include a report, prepared by the department of transportation, showing the
17 selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding states
18 during the biennium, with indexes tabulated at sufficient intervals to show the comparative state price structures.

19 (9) The department shall provide an internet version of the report free of charge to the public and shall
20 charge a fee for paper copies that is commensurate with the cost of printing the report."

21

22 **Section 4.** Section 15-6-138, MCA, is amended to read:

23 **"15-6-138. Class eight property -- description -- taxable percentage.** (1) Class eight property
24 includes:

25 (a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

26 (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies
27 except those included in class five under 15-6-135;

28 (c) for oil and gas production, all:

29 (i) machinery;

30 (ii) fixtures;

- 1 (iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water
2 storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas
3 metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is
4 skidable, portable, or movable;
- 5 (iv) tools that are not exempt under 15-6-219; and
- 6 (v) supplies except those included in class five;
- 7 (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and
8 personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors
9 as provided in 15-6-220, and supplies except those included in class five;
- 10 (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are
11 specifically included and taxed in another class or that are rented under a purchase incentive rental program as
12 defined in 15-6-202(4);
- 13 (f) special mobile equipment as defined in 61-1-101;
- 14 (g) furniture, fixtures, and equipment, except that specifically included in another class, used in
15 commercial establishments as defined in this section;
- 16 (h) x-ray and medical and dental equipment;
- 17 (i) citizens' band radios and mobile telephones;
- 18 (j) radio and television broadcasting and transmitting equipment;
- 19 (k) cable television systems;
- 20 (l) coal and ore haulers;
- 21 (m) theater projectors and sound equipment; and
- 22 (n) all other property that is not included in any other class in this part, except that property that is subject
23 to a fee in lieu of a property tax.
- 24 (2) As used in this section, the following definitions apply:
- 25 (a) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are
26 primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.
- 27 (b) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service,
28 wholesale, retail, or food-handling business.
- 29 (c) "Flow lines and gathering lines" means pipelines used to transport all or part of the oil or gas
30 production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101,

1 a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil
 2 transmission pipeline regulated by the public service commission or the federal energy regulatory commission.

3 (3) Except as provided in 15-24-1402, 15-24-2102, and subsection (4) of this section class eight property
 4 is taxed at:

5 (a) as determined pursuant to subsection (4):

6 (i) for the first \$2 million of taxable market value, 2%; or

7 (ii) for the first \$3 million of taxable market value, 1.5%; and

8 (b) for all taxable market value in excess of the applicable amount of taxable market value in subsection
 9 (3)(a), 3%.

10 (4) (a) The adjusted taxable market value and rate in subsection (3)(a)(i) apply for class eight property
 11 unless in any year beginning with fiscal year 2013 the revenue collected from individual income tax and
 12 ~~corporation~~ corporate income tax exceeds the revenue collected from individual income tax and ~~corporation~~
 13 corporate income tax in the previous fiscal year by more than 4%. In that case, for tax years beginning after the
 14 next December 31, the taxable market value and rate in subsection (3)(a)(ii) apply.

15 (b) For the purpose of making the determination required in subsection (4)(a), the department of
 16 administration shall certify to the secretary of state, by August 1 of each year in which class eight property is not
 17 taxed pursuant to subsection (3)(a)(ii), the amount of unaudited individual income tax and ~~corporation~~ corporate
 18 income tax revenue in the prior fiscal year as recorded when that fiscal year statewide accounting, budgeting,
 19 and human resource system records are closed in July.

20 (5) The class eight property of a person or business entity that owns an aggregate of \$20,000 or less
 21 in market value of class eight property is exempt from taxation.

22 (6) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services
 23 to third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and
 24 centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to
 25 central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all
 26 affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be
 27 aggregated for purposes of determining the 500-mile threshold."

28

29 **Section 5.** Section 15-30-2110, MCA, is amended to read:

30 "**15-30-2110. Adjusted gross income.** (1) Subject to subsection (13), adjusted gross income is the

1 taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62,
2 and in addition includes the following:

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

6 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
7 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

8 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a
9 reduction of Montana income tax liability;

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

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

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

15 (f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of
16 the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution
17 of the same estate or trust for the same tax period; and

18 (g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after
19 December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted
20 gross income.

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

23 (a) (i) all interest income from obligations of the United States government, the state of Montana, or a
24 county, municipality, district, or other political subdivision of the state and any other interest income that is exempt
25 from taxation by Montana under federal law;

26 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
27 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

28 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including
29 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

30 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income

1 received as defined in 15-30-2101;

2 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

3 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total
4 amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in
5 excess of \$30,000 as shown on the taxpayer's return;

6 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity
7 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in
8 subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000
9 as shown on their joint return;

10 (d) all Montana income tax refunds or tax refund credits;

11 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

12 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section
13 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January
14 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage,
15 or lodging;

16 (g) all benefits received under the workers' compensation laws;

17 (h) all health insurance premiums paid by an employer for an employee if attributed as income to the
18 employee under federal law;

19 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a
20 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

21 (j) principal and income in a medical care savings account established in accordance with 15-61-201
22 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a
23 dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

24 (k) principal and income in a first-time home buyer savings account established in accordance with
25 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase
26 of a single-family residence;

27 (l) contributions withdrawn from a family education savings account or earnings withdrawn from a family
28 education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated
29 beneficiary;

30 (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the

1 recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

2 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of
3 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution
4 of the same estate or trust for the same tax period;

5 (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch
6 risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction
7 is not provided for federal income tax purposes;

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

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

13 (r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and

14 (s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in
15 15-31-163.

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

20 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business
21 deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and
22 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and
23 salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries
24 were used to compute the credit. In the case of a partnership or small business corporation, the deduction must
25 be made to determine the amount of income or loss of the partnership or small business corporation.

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

1 (6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section
2 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may
3 claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital
4 loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss
5 must be split equally on each return.

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

11 (8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a
12 deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C.
13 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is
14 allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

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

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

25 (10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end
26 of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income
27 up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is
28 absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the
29 excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the
30 taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the

1 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted
2 gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage
3 in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting
4 or expected to last at least 12 months.

5 (11) An individual who contributes to one or more accounts established under the Montana family
6 education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the
7 contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for
8 the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made
9 by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection
10 applies only with respect to contributions to an account of which the account owner, as defined in 15-62-103, is
11 the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a
12 Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions
13 that reduced adjusted gross income.

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

16 (i) is a health care professional licensed in Montana as provided in Title 37;
17 (ii) is serving a significant portion of a designated geographic area, special population, or facility
18 population in a federally designated health professional shortage area, a medically underserved area or
19 population, or a federal nursing shortage county as determined by the secretary of health and human services
20 or by the governor;

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

22 (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment
23 program described in subsection (12)(b) as an incentive to practice in Montana.

24 (b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or
25 qualified private program. A qualified private loan repayment program includes a licensed health care facility, as
26 defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility
27 as a licensed health care professional.

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

1 (14) By November 1 of each year, the department shall multiply the amount of pension and annuity
 2 income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)
 3 by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results
 4 to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the
 5 exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency--sec.
 6 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

7

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

9 **"15-30-2328. (Temporary) Credit for contributions to qualified endowment -- recapture of credit**

10 **-- deduction included as income.** (1) A taxpayer is allowed a tax credit against the taxes imposed by
 11 15-30-2103 or 15-31-101 in an amount equal to 40% of the present value of the aggregate amount of the
 12 charitable gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The
 13 maximum credit that may be claimed by a taxpayer for contributions made from all sources in a year is \$10,000.
 14 The credit allowed under this section may not exceed the taxpayer's income tax liability.

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

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

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

21 (a) include as income the amount deducted in any prior year that is attributable to the charitable gift to
 22 the extent that the deduction reduced the taxpayer's individual income tax or ~~corporation license~~ corporate income
 23 tax; and

24 (b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed
 25 in the tax year in which the credit was taken. (Terminates December 31, 2013--sec. 7, Ch. 4, L. 2005; secs. 2,
 26 3, 4, 7(2), Ch. 208, L. 2007.)"

27

28 **Section 7.** Section 15-30-3301, MCA, is amended to read:

29 **"15-30-3301. Definition of small business corporation.** (1) Except as provided in subsection (2), the
 30 term "small business corporation" is synonymous with "S. corporation" as defined in 15-30-2101 and means a

1 corporation for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is in
2 effect.

3 (2) A corporation that would otherwise be a small business corporation may continue to be subject to
4 the taxes imposed by Title 15, chapter 31, if all of the following conditions are met:

5 (a) on December 31, 1991, the corporation was doing business in Montana and had a valid subchapter
6 S. corporation election but had not elected to be taxed as a Montana small business corporation;

7 (b) after December 31, 1991, the corporation has not filed as a Montana small business corporation; and

8 (c) the corporation files a ~~corporate license~~ corporate income tax return, as required by 15-31-111,
9 reporting all income or loss as determined under Title 15, chapter 31, and attaches a copy of the federal
10 subchapter S. corporate tax return."
11

12 **Section 8.** Section 15-30-3312, MCA, is amended to read:

13 **"15-30-3312. Composite returns and tax.** (1) A partnership or S. corporation may elect to file a
14 composite return and pay a composite tax on behalf of participants. A participant is a partner, shareholder,
15 member, or other owner who:

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

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

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

21 (i) determining the tax that would be imposed, using the rates specified in 15-30-2103, on the sum
22 obtained by subtracting the allowable standard deduction for a single individual and one exemption allowance
23 from the participant's share of the entity's income from all sources as determined for federal income tax purposes;
24 and

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

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

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

30 (4) The electing entity:

- 1 (a) shall remit the composite tax to the department;
- 2 (b) must be responsible for any assessments of additional tax, penalties, and interest, which additional
3 assessments must be based on the total liability reflected in the composite return;
- 4 (c) shall represent the participants in any appeals, claims for refund, hearing, or court proceeding in any
5 matters relating to the filing of the composite return;
- 6 (d) shall make quarterly estimated tax payments and be subject to the underpayment interest as
7 prescribed by 15-30-2512(5)(a) computed on the composite tax liability included in the filing of a composite return;
8 and
- 9 (e) shall retain powers of attorney executed by each participant included in the composite return,
10 authorizing the entity to file the composite return and to act on behalf of each participant.
- 11 (5) The composite return must be made on forms the department prescribes and filed on or before the
12 due date, including extensions, for filing the entity information return. The composite return is in lieu of an
13 individual income tax return required under 15-30-2602 and 15-30-2604, a ~~corporation license~~ corporate income
14 tax return required under 15-31-111, and a ~~corporation~~ an alternative corporate income tax return required under
15 15-31-403.
- 16 (6) The composite tax is in lieu of the taxes imposed under:
- 17 (a) 15-30-2103 and 15-30-2104;
- 18 (b) 15-31-101 and 15-31-121; and
- 19 (c) 15-31-403.
- 20 (7) The department may adopt rules that are necessary to implement and administer this section."
21

22 **Section 9.** Section 15-30-3313, MCA, is amended to read:

23 **"15-30-3313. Consent or withholding.** (1) A pass-through entity that is required to file an information
24 return as provided in 15-30-3302 and that has a partner, shareholder, member, or other owner who is a
25 nonresident individual, a foreign C. corporation, or a pass-through entity that itself has any partner, shareholder,
26 member, or other owner that is a nonresident individual, foreign C. corporation, or pass-through entity shall, on
27 or before the due date, including extensions, for the information return:

- 28 (a) with respect to any partner, shareholder, member, or other owner who is a nonresident individual:
- 29 (i) file a composite return;
- 30 (ii) file an agreement of the individual nonresident to:

- 1 (A) file a return in accordance with the provisions of 15-30-2602;
- 2 (B) timely pay all taxes imposed with respect to income of the pass-through entity; and
- 3 (C) be subject to the personal jurisdiction of the state for the collection of income taxes and related
- 4 interest, penalties, and fees imposed with respect to the income of the pass-through entity; or
- 5 (iii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by the
- 6 nonresident individual's share of Montana source income reflected on the pass-through entity's information return;
- 7 (b) with respect to any partner, shareholder, member, or other owner that is a foreign C. corporation:
- 8 (i) file a composite return;
- 9 (ii) file the foreign C. corporation's agreement to:
- 10 (A) file a return in accordance with the provisions of 15-31-111;
- 11 (B) timely pay all taxes imposed with respect to income of the pass-through entity; and
- 12 (C) be subject to the personal jurisdiction of the state for the collection of ~~corporation license and income~~
- 13 taxes, corporate income taxes, and alternative corporate income taxes and related interest, penalties, and fees
- 14 imposed with respect to the income of the pass-through entity; or
- 15 (iii) remit an amount equal to the tax rate in effect under 15-31-121 multiplied by the foreign C.
- 16 corporation's share of Montana source income reflected on the pass-through entity's information return; and
- 17 (c) with respect to any partner, shareholder, member, or other owner that is a pass-through entity, also
- 18 referred to in this section as a "second-tier pass-through entity":
- 19 (i) file a composite return;
- 20 (ii) file a statement of the pass-through entity partner, shareholder, member, or other owner setting forth
- 21 the name, address, and social security or federal identification number of each of that entity's partners,
- 22 shareholders, members, or other owners and information that establishes that its share of Montana source
- 23 income will be fully accounted in individual income tax, or corporation license corporate income tax, or alternative
- 24 corporate income tax returns filed with the state; or
- 25 (iii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by its
- 26 share of Montana source income reflected on the pass-through entity's information return.
- 27 (2) Any amount paid by a pass-through entity with respect to a nonresident individual pursuant to
- 28 subsection (1)(a)(iii) must be considered as a payment on the account of the nonresident individual for the income
- 29 tax imposed on the nonresident individual for the tax year pursuant to 15-30-2104. On or before the due date,
- 30 including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through

1 entity shall furnish to the nonresident individual a record of the amount of tax paid on the individual's behalf.

2 (3) Any amount paid by a pass-through entity with respect to a foreign C. corporation pursuant to
3 subsection (1)(b)(iii) must be considered as a payment on the account of the foreign C. corporation for the
4 ~~corporation license~~ corporate income tax imposed on the foreign C. corporation for the tax year pursuant to
5 15-31-101 or the ~~corporation~~ alternative corporate income tax imposed on the foreign C. corporation for the tax
6 year pursuant to 15-31-403. On or before the due date, including extensions, of the pass-through entity's
7 information return provided in 15-30-3302, the pass-through entity shall furnish to the foreign C. corporation a
8 record of the amount of tax paid on its behalf.

9 (4) Any amount paid by a pass-through entity with respect to a second-tier pass-through entity pursuant
10 to subsection (1)(c)(iii) must be considered as payment on the account of the individual, trust, estate, or C.
11 corporation to which Montana source income is directly or indirectly passed through and must be claimed as the
12 distributable share of a refundable credit of the pass-through entity partner, shareholder, member, or other owner
13 on behalf of which the amount was paid. On or before the due date, including extensions, of the pass-through
14 entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the second-tier
15 pass-through entity a record of the refundable credit that may be claimed for the amount paid on its behalf.

16 (5) A pass-through entity is entitled to recover a payment made pursuant to subsection (1)(a)(iii),
17 (1)(b)(iii), or (1)(c)(iii) from the partner, shareholder, member, or other owner on whose behalf the payment was
18 made.

19 (6) Following the department's notice to a pass-through entity that a nonresident individual or foreign C.
20 corporation did not file a return or timely pay all taxes as provided in subsection (1), the pass-through entity must,
21 with respect to any tax year thereafter for which the nonresident individual or foreign C. corporation is not included
22 in the pass-through entity's composite return, remit the amount described in subsection (1)(a)(iii) for the
23 nonresident individual and the amount described in subsection (1)(b)(iii) for the foreign C. corporation.

24 (7) A publicly traded partnership described in 15-30-3302(4) that agrees to file an annual information
25 return reporting the name, address, and taxpayer identification number for each person or entity that has an
26 interest in the partnership that results in Montana source income or that has sold its interest in the partnership
27 during the tax year is exempt from the composite return and withholding requirements of Title 15, chapter 30. A
28 publicly traded partnership shall provide the department with the information in an electronic form that is capable
29 of being sorted and exported. Compliance with this subsection does not relieve a person or entity from its
30 obligation to pay Montana income taxes.

1 (8) Nothing in this section may be construed as modifying the provisions of Article IV(18) of 15-1-601
2 and 15-31-312 allowing a taxpayer to petition for and the department to require methods to fairly represent the
3 extent of the taxpayer's business activity in the state."
4

5 **Section 10.** Section 15-31-101, MCA, is amended to read:

6 **"15-31-101. Organizations subject to tax -- incorporation of terms that mean corporate income**
7 **tax.** (1) The term "corporation" includes an association, joint-stock company, common-law trust or business trust
8 that does business in an organized capacity, all other corporations whether created, organized, or existing under
9 and pursuant to the laws, agreements, or declarations of trust of any state, country, or the United States, and any
10 limited liability company, limited liability partnership, partnership, or other entity that is treated as an association
11 for federal income tax purposes and that is not a disregarded entity.

12 (2) The terms "engaged in business" and "doing business" both mean actively engaging in any
13 transaction for the purpose of financial or pecuniary gain or profit.

14 (3) Except as provided in 15-31-103 or 33-2-705(4) or as may be otherwise specifically provided, a
15 corporation engaged in business in the state of Montana shall annually pay to the state treasurer ~~as a license fee~~
16 corporate income tax for the privilege of carrying on business in this state the percentage or percentages of its
17 total net income for the preceding tax year at the rate set forth in this chapter. If a corporation has income from
18 business activity that is taxable both within and outside of this state, the ~~license fee~~ corporate income tax must
19 be measured by the net income derived from or attributable to Montana sources as determined under part 3.
20 Except as provided in 15-31-502 and subject to the due date provision in 15-31-111(2)(b), the tax is due and
21 payable on the 15th day of the 5th month following the close of the tax year of the corporation. However, the tax
22 becomes a lien as provided in this chapter on the last day of the tax year in which the income was earned and
23 is for the privilege of carrying on business in this state for the tax year in which the income was earned.

24 (4) A bank organized under the laws of the state of Montana, of any other state, or of the United States
25 and a savings and loan association organized under the laws of this state or of the United States is subject to the
26 Montana ~~corporation license~~ corporate income tax provided for under this chapter. For tax years beginning on
27 and after January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C.
28 548).

29 (5) Unless context requires otherwise, when the words "corporation income tax", "corporation license
30 tax", "corporate license tax", "license tax", "license fee", or similar words appear in the Montana Code Annotated

1 referring to the tax imposed under this chapter, the terms mean "corporate income tax".

2

3 **Section 11.** Section 15-31-102, MCA, is amended to read:

4 **"15-31-102. Organizations exempt from tax -- unrelated business income not exempt.** (1) Except
5 as provided in subsection (3), there may not be taxed under this title any income received by any:

6 (a) labor, agricultural, or horticultural organization;

7 (b) fraternal beneficiary, society, order, or association operating under the lodge system or for the
8 exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the
9 payment of life, sick, accident, or other benefits to the members of the society, order, or association or their
10 dependents;

11 (c) cemetery company owned and operated exclusively for the benefit of its members;

12 (d) corporation or association organized and operated exclusively for religious, charitable, scientific, or
13 educational purposes, no part of the net income of which inures to the benefit of any private stockholder or
14 individual;

15 (e) business league, chamber of commerce, or board of trade not organized for profit, no part of the net
16 income of which inures to the benefit of any private stockholder or individual;

17 (f) civic league or organization not organized for profit but operated exclusively for the promotion of social
18 welfare;

19 (g) club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes,
20 no part of the net income of which inures to the benefit of any private stockholder or members;

21 (h) farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company,
22 mutual or cooperative telephone company, or similar organization of a purely local character, the income of which
23 consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its
24 expenses;

25 (i) cooperative association or corporation engaged in the business of operating a rural electrification
26 system or systems for the transmission or distribution of electrical energy on a cooperative basis;

27 (j) corporations or associations organized for the exclusive purpose of holding title to property, collecting
28 income from the property, and turning over the entire amount of the income, less expenses, to an organization
29 that itself is exempt from the tax imposed by this title;

30 (k) wool and sheep pool, which is an association owned and operated by agricultural producers

1 organized to market association members' wool and sheep, the income of which consists solely of assessments,
 2 dues, and fees collected from members for the sole purpose of meeting its expenses. Income, for this purpose,
 3 does not include expenses and money distributed to members contributing wool and sheep.

4 (l) corporation that qualifies as a domestic international sales corporation (DISC) under the provisions
 5 of section 991, et seq., of the Internal Revenue Code, 26 U.S.C. 991, et seq., and that has in effect for the entire
 6 taxable year a valid election under federal law to be treated as a DISC. If a corporation makes that election under
 7 federal law, each person who at any time is a shareholder of the corporation is subject to taxation under Title 15,
 8 chapter 30, on the earnings and profits of this DISC in the same manner as provided by federal law for all periods
 9 for which the election is effective.

10 (m) farmers' market association not organized for profit, no part of the net income of which inures to the
 11 benefit of any member, but that is organized for the sole purpose of providing for retail distribution of homegrown
 12 vegetables, handicrafts, and other products either grown or manufactured by the seller;

13 (n) common trust fund as defined in section 584(a) of the Internal Revenue Code, 26 U.S.C. 584(a).

14 (2) In determining the ~~license fee to be paid~~ corporate income tax imposed under this part, there may
 15 not be included any earnings derived from any public utility managed or operated by any subdivision of the state
 16 or from the exercise of any governmental function.

17 (3) Any unrelated business taxable income, as defined by section 512 of the Internal Revenue Code,
 18 26 U.S.C. 512, as amended, earned by any exempt corporation resulting in a federal unrelated business income
 19 tax liability of more than \$100 must be taxed as other corporation income is taxed under this title. An exempt
 20 corporation subject to taxation on unrelated business income under this section shall file a copy of its federal
 21 exempt organization business income tax return on which it reports its unrelated business income with the
 22 department of revenue."

23

24 **Section 12.** Section 15-31-111, MCA, is amended to read:

25 **"15-31-111. Return to be filed -- penalty and interest.** (1) A corporation subject to the ~~license~~
 26 corporate income tax imposed under this chapter shall for each tax period file an accurate return of its net income
 27 for the tax period in the manner and form prescribed by the department. The return must contain all of the
 28 information that is appropriate and in the opinion of the department necessary to determine the correctness of
 29 the net income disclosed by the return and to carry out the provisions of this chapter. The return must be signed
 30 by the president, the vice president, the treasurer, the assistant treasurer, or the chief accounting officer.

1 (2) (a) Except as provided in subsection (2)(b), if the corporation is reporting on a calendar year basis,
 2 the return must be filed with the department on or before May 15 following the close of the calendar year. If the
 3 corporation is reporting on a fiscal year basis, the return must be filed with the department on or before the 15th
 4 day of the 5th month following the close of its fiscal year.

5 (b) (i) If the due date of the return falls on a holiday that defers a filing date as recognized by the Internal
 6 Revenue Service and that is not observed in Montana, the return may be made on the first business day after
 7 the holiday.

8 (ii) The department may extend filing dates and defer or waive interest, penalties, and other effects of
 9 late filing for a period not exceeding 1 year for taxpayers affected by a federally declared disaster or a terroristic
 10 or military action recognized for federal tax purposes under 26 U.S.C. 7508A.

11 (3) (a) A corporation is allowed an automatic extension of time for filing its return of up to 6 months
 12 following the date prescribed for filing of its tax return. The tax, penalty, and interest must be paid when the return
 13 is filed. Penalty and interest must be added to the tax due as provided in 15-31-510(2).

14 (b) The department may grant an additional extension of time for the filing of a return whenever in its
 15 judgment good cause exists.

16 (4) Receivers, trustees in bankruptcy, or assignees operating the property or business of a corporation
 17 subject to the ~~license~~ corporate income tax imposed by this chapter shall make the return in the same manner
 18 and form as the corporation is required to make the return. Any ~~license~~ corporate income tax due on the basis
 19 of the return is assessed and collected in the same manner as if assessed directly against the corporation of
 20 whose business or property the receiver, trustee, or assignee has custody and control. The receiver, trustee, or
 21 assignee shall pay the tax out of the property of the corporation, prior to the claims of creditors or stockholders."
 22

23 **Section 13.** Section 15-31-112, MCA, is amended to read:

24 "**15-31-112. Taxable period.** The ~~license fee shall~~ corporate income tax must be computed on the basis
 25 of the corporation's total net income for the taxable period. The corporation's taxable period ~~shall be its~~ is the
 26 same as the taxable year for federal income tax purposes. ~~In the event~~ If a corporation changes its taxable year,
 27 it shall promptly notify the department of revenue."
 28

29 **Section 14.** Section 15-31-113, MCA, is amended to read:

30 "**15-31-113. Gross income and net income.** (1) The term "gross income" means all income recognized

1 in determining the corporation's gross income for federal income tax purposes and:

2 (a) including:

3 (i) interest exempt from federal income tax and exempt-interest dividends as defined in section 852(b)(5)
4 of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

5 (ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate
6 income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may
7 be amended or renumbered, attributable to stockholders, either individual or corporate, not subject to Montana
8 income or ~~license~~ corporate income tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain
9 passing through to the stockholders pursuant to federal law; and

10 (b) excluding gain recognized for federal tax purposes as a shareholder of a liquidating corporation
11 pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or
12 renumbered, when the gain is required to be recognized by the liquidating corporation pursuant to subsection
13 (1)(a)(ii) of this section.

14 (2) The term "net income" means the gross income of the corporation less the deductions set forth in
15 15-31-114.

16 (3) A corporation is not exempt from the ~~corporation license~~ corporate income tax unless specifically
17 provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but
18 not exempt from the ~~corporation license~~ corporate income tax under 15-31-101(3) or 15-31-102 shall compute
19 gross income for ~~corporation license~~ corporate income tax purposes in the same manner as a corporation that
20 is subject to or liable for federal income tax according to the provisions for determining gross income in the federal
21 Internal Revenue Code in effect for the taxable year."

22

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

24 **"15-31-114. Deductions allowed in computing income.** (1) In computing the net income, the following
25 deductions are allowed from the gross income received by the corporation within the year from all sources:

26 (a) all the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance
27 and operation of its business and properties, including reasonable allowance for salaries for personal services
28 actually rendered, subject to the limitation contained in this section, and rentals or other payments required to
29 be made as a condition to the continued use or possession of property to which the corporation has not taken
30 or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the

1 recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income
2 derived from outside the state, salaries of officers paid in connection with securing the income are deductible.

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

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

14 (c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance
15 for depletion and for depreciation of improvements. The reasonable allowance must be determined according
16 to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal
17 Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling
18 expenses for ~~corporation license~~ corporate income tax purposes must be the same as the elections made for
19 federal income tax purposes.

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

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

25 (A) taxes imposed by this part;

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

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

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

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

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

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

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

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

10 (h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,
11 81-7-118, or 81-7-201.

12 (2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market
13 value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological
14 equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited
15 postsecondary school located in Montana if:

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

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

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

22 (3) In the case of a regulated investment company or a fund of a regulated investment company, as
23 defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that
24 section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section
25 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered,
26 except that the deduction for dividends is not allowed with respect to dividends attributable to any income that
27 is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of
28 computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue
29 Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A
30 regulated investment company is not allowed a deduction for dividends received as defined in sections 243

1 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be
2 amended or renumbered."

3

4 **Section 16.** Section 15-31-115, MCA, is amended to read:

5 **"15-31-115. Reaffirmation of bond income inclusion in definition of net income for corporation**
6 **license corporate income tax purposes.** Notwithstanding the provisions of any other law, the income from
7 bonds or other obligations issued by any state or political subdivision of a state are included in gross and net
8 income for purposes of the ~~corporation license~~ corporate income tax."

9

10 **Section 17.** Section 15-31-117, MCA, is amended to read:

11 **"15-31-117. Tax deductibility.** (1) The amount of contributions made by a small business to its
12 independent liability fund as defined in 33-27-103 is deductible to that small business on its Montana corporate
13 ~~license~~ income tax or alternative corporate income tax return for the taxable year in which the contributions are
14 made to the fund.

15 (2) Administrative costs under 33-27-117(1), except those paid from the principal of an independent
16 liability fund, are deductible on the Montana corporate ~~license~~ income tax or alternative corporate income tax
17 return for the taxable year in which they are paid or accrued.

18 (3) Income on the money, assets, and investments in an independent liability fund as defined in
19 33-27-103 may be contributed to the fund. If it is not so contributed, it is taxable in accordance with the applicable
20 provisions of this chapter."

21

22 **Section 18.** Section 15-31-125, MCA, is amended to read:

23 **"15-31-125. Determination of tax credit.** A new or expanding manufacturing corporation may receive
24 ~~a license~~ an income tax credit based on a percentage of wages paid its new employees within this state for a
25 period of 3 years as ~~follows:~~ provided in this section. For the first 3 years of operation of a new corporation or the
26 first 3 years of expansion of an expanding corporation, a credit of 1% of the total new wages paid in this state,
27 as wages are defined in 39-51-201, may be allowed. In determining total wages for an expanding corporation,
28 only those wages paid in support of the expansion are considered in ascertaining the credit. The payroll and
29 number of jobs of the corporation in the 12-month period immediately preceding the expansion are averaged to
30 determine eligibility for the credit."

1

2 **Section 19.** Section 15-31-143, MCA, is amended to read:

3 **"15-31-143. Return and payment on corporate dissolution.** (1) Each corporation doing business in
4 Montana shall pay an excise tax for the exercise of that privilege, and the amount of the excise tax must be based
5 upon the total taxable net income of a corporation during the entire period of time that it is engaged in business
6 in this state. No remission of that obligation for the last year in which a corporation engages in business in
7 Montana was intended by the original enactment of this section.

8 (2) Each corporation that is dissolved or ceases to do business in Montana shall, upon the dissolution
9 or cessation of business, make a return and pay the ~~corporation license~~ corporate income tax determined on the
10 basis of its net income for the final period in which it did business in this state at the rate provided in 15-31-121
11 and 15-31-122, in addition to all other ~~corporation license~~ corporate income taxes for which the corporation may
12 then be liable."

13

14 **Section 20.** Section 15-31-161, MCA, is amended to read:

15 **"15-31-161. (Temporary) Credit for contribution by corporations to qualified endowment --**
16 **recapture of credit -- deduction included as income.** (1) A corporation is allowed a credit in an amount equal
17 to 20% of a charitable gift against the taxes otherwise due under 15-31-101 for charitable contributions made to
18 a qualified endowment, as defined in 15-30-2327. The maximum credit that may be claimed by a corporation for
19 contributions made from all sources in a year under this section is \$10,000. The credit allowed under this section
20 may not exceed the corporate taxpayer's income tax liability. The credit allowed under this section may not be
21 claimed by a corporation if the taxpayer has included the full amount of the contribution upon which the amount
22 of the credit was computed as a deduction under 15-31-114. There is no carryback or carryforward of the credit
23 permitted under this section, and the credit must be applied to the tax year in which the contribution is made.

24 (2) If during any tax year a charitable gift is recovered by the corporation, the corporation shall:

25 (a) include as income the amount deducted in any prior year that is attributable to the charitable gift to
26 the extent that the deduction reduced the taxpayer's ~~corporation license~~ corporate income tax or ~~corporation~~
27 alternative corporate income tax; and

28 (b) increase the amount of tax due under 15-31-101 by the amount of the credit allowed in the tax year
29 in which the credit was taken. (Terminates December 31, 2013--sec. 7, Ch. 4, L. 2005; secs. 2, 3, 4, 7(2), Ch.
30 208, L. 2007.)"

1

2 **Section 21.** Section 15-31-401, MCA, is amended to read:

3 **"15-31-401. Application of license corporate income tax and ~~income taxes~~ alternative corporate**
 4 **income tax.** (1) It is the intent of the legislature that the ~~corporation license corporate income tax~~ shall must be
 5 applied to all corporations subject to taxation under part 1 of this chapter. Except as provided in subsection (2),
 6 the alternative corporate income tax provided by this part ~~shall must~~ be applied to corporations that are not
 7 taxable under part 1 of this chapter but are taxable under an income tax.

8 (2) During its first 5 taxable years of activity in Montana, the net income earned from research and
 9 development activities by a research and development firm as described in 15-31-103 is not subject to either the
 10 ~~corporation license corporate income tax~~ provided in part 1 of this chapter or to the ~~corporation~~ alternative
 11 corporate income tax provided in this part."
 12

13 **Section 22.** Section 15-31-402, MCA, is amended to read:

14 **"15-31-402. Short title -- administration of part.** This part ~~shall be known as and~~ may be cited as the
 15 "~~Corporation~~ Alternative Corporate Income Tax", ~~and it shall be administered by the.~~ The department of revenue
 16 shall administer the provisions of this part."
 17

18 **Section 23.** Section 15-31-404, MCA, is amended to read:

19 **"15-31-404. Offset for license corporate income taxes -- alternative corporate income tax collected**
 20 **considered license corporate income tax.** There must be offset against the ~~corporation~~ alternative corporate
 21 income tax imposed for any period the amount of any tax imposed against the corporation for the same period
 22 under parts 1, 3, and 5 of this chapter. If taxes, interest, and penalties have been or will be assessed against, paid
 23 by, or collected from a corporation under this part and the assessment, payment, or collection should have been
 24 made under parts 1, 3, and 5 of this chapter, the taxes, interest, and penalties must be considered as having
 25 been assessed, paid, or collected under parts 1, 3, and 5 as of the date they were made."
 26

27 **Section 24.** Section 15-31-406, MCA, is amended to read:

28 **"15-31-406. License Corporate income tax sections incorporated by reference.** The provisions of
 29 the following sections of this chapter are incorporated into this part by reference and made a part of this part:

30 (1) that part of 15-31-101 that defines the term "corporation" and 15-31-102, which specifies the classes

1 of organizations whose income may not be taxed;

2 (2) sections 15-31-111 through 15-31-114, 15-31-117 through 15-31-119, 15-31-141, 15-31-142,

3 15-31-301 through 15-31-313, 15-31-501 through 15-31-506, 15-31-509, 15-31-511, 15-31-525, 15-31-526,

4 15-31-531, 15-31-532, 15-31-541, and 15-31-543, except that the term "gross income" must be construed as

5 excluding the net amount of interest income from valid obligations of the United States and except that wherever

6 the words "tax", "corporate income tax", "license tax", "license fee", "corporation excise tax", or ~~like similar~~ words

7 appear, referring to the tax imposed under part 1 of this chapter, there is substituted the words "alternative

8 corporate income tax".

9

10 **Section 25.** Section 15-31-511, MCA, is amended to read:

11 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with

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

13 (a) the amount of income or any particulars set forth or disclosed in any return or report required under

14 this chapter or any other information relating to taxation secured in the administration of this chapter; or

15 (b) any federal return or information in or disclosed on a federal return or report required by law or rule

16 of the department of revenue under this chapter.

17 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter may

18 not be ordered to produce any of them or evidence of anything contained in them in any administrative

19 proceeding or action or proceeding in any court, except:

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

21 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of

22 this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

23 (b) If the production of a return, report, or information contained in them is ordered, the court shall limit

24 production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the

25 action or proceeding.

26 (3) This section does not prohibit:

27 (a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer

28 who filed the return or report or to the taxpayer's authorized representative;

29 (b) the publication of statistics prepared in a manner that prevents the identification of particular returns,

30 reports, or items from returns or reports;

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

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

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

11 (f) the disclosure of information to the commissioner of insurance's office that is necessary for the
12 administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20.

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

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

17 (b) provide ~~corporation income~~ corporate income tax and alternative corporate income tax information,
18 including any information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst,
19 as provided in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or
20 17-7-111. The information furnished to the legislative fiscal analyst and the office of budget and program planning
21 is subject to the same restrictions on disclosure outside those offices as provided in subsection (1).

22 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or
23 public employee is convicted of violating this section, the person is dismissed from office or employment and may
24 not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case
25 of a former officer or employee, for 1 year after conviction."

26

27 **Section 26.** Section 15-31-522, MCA, is amended to read:

28 **"15-31-522. When immediate payment demanded.** If the department of revenue ~~finds~~ determines that
29 the assessment or collection of the tax or a deficiency in tax due under any ~~corporation license~~ corporate income
30 tax statute of Montana for any taxable period will be jeopardized in whole or in part by delay, it may mail notice

1 of its findings to the taxpayer, together with a demand for immediate payment of the tax or deficiency declared
 2 to be in jeopardy, including penalty and accrued interest. In the case of a tax for a current period, the department
 3 may declare the taxable period of the taxpayer immediately terminated and shall mail or issue notice of its findings
 4 to the taxpayer, together with a demand for immediate payment of the tax based on the period declared
 5 terminated. A jeopardy assessment is immediately due and payable, and proceedings for collection may be
 6 commenced at once."

7

8 **Section 27.** Section 15-31-523, MCA, is amended to read:

9 **"15-31-523. Suspension or forfeiture on delinquency.** (1) If a tax computed and levied under this
 10 chapter is not paid or if a return is not filed before 5 p.m. on the last day of the 11th month after the date of
 11 delinquency, the corporate powers, rights, and privileges of the delinquent taxpayer, if it is a domestic corporation,
 12 must be suspended, and if the delinquent taxpayer is a foreign corporation, it ~~shall forfeit~~ forfeits its rights to do
 13 intrastate business in this state. If a domestic corporation fails for a period of 5 consecutive years either to file
 14 a return or to pay the ~~corporation license~~ corporate income tax, the department shall notify the corporation by mail
 15 addressed to the latest address on file in its office that the corporation will become dissolved if it fails to file all
 16 delinquent reports and pay all delinquent ~~corporation license~~ corporate income taxes within a period of 60 days
 17 after the mailing of the notice. If the delinquent reports are not made and all delinquent ~~corporation licenses~~ taxes
 18 are not paid before the expiration of the 60-day period, the department shall certify this fact to the secretary of
 19 state, and upon receipt of the certificate, the corporation must be dissolved and the secretary of state shall
 20 indicate, by the secretary of state's records, the dissolution.

21 (2) The department shall transmit the name of each corporation described in subsection (1) to the
 22 secretary of state, who shall immediately record the transmission in a manner that is available to the public. The
 23 suspension, forfeiture, or dissolution provided for in this section becomes effective immediately when the record
 24 is made, and the certificate of the secretary of state is conclusive evidence of the suspension, forfeiture, or
 25 dissolution."

26

27 **Section 28.** Section 15-31-531, MCA, is amended to read:

28 **"15-31-531. Credit for overpayment -- interest on overpayment.** (1) If the department determines that
 29 the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the
 30 overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance

1 refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders
2 upon dissolution.

3 (2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate
4 as is charged on delinquent taxes, as provided in 15-1-216, due from the due date of the return or from the date
5 of overpayment, whichever is later, to the date the department approves refunding or crediting of the
6 overpayment.

7 (3) (a) Interest may not accrue during any period the processing of a claim for refund is delayed more
8 than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the
9 purpose of verifying the amount of the overpayment.

10 (b) Interest is not allowed:

11 (i) if the overpayment is refunded within 6 months from the date the return is due or from the date the
12 return is filed, whichever is later; or

13 (ii) if the amount of interest is less than \$1.

14 (4) A payment not made incident to a bona fide and orderly discharge of an actual ~~corporation license~~
15 corporate income tax liability or one reasonably assumed to be imposed by this chapter is not considered an
16 overpayment with respect to which interest is allowable."
17

18 **Section 29.** Section 15-31-543, MCA, is amended to read:

19 **"15-31-543. Forfeiture of right to engage in business -- penalties.** (1) A corporation that purposely
20 fails to file a return at the time specified in 15-31-502 or that purposely files a false or fraudulent return may be
21 adjudged by a court of competent jurisdiction to forfeit the right to continue to engage in business in the state as
22 a corporation until the ~~license~~ corporate income tax, together with all penalties, interest, and costs, is paid. The
23 forfeiture may be enforced by proper proceedings in court.

24 (2) Each officer or employee of any corporation or other person who, without fraudulent intent, fails to
25 file, sign, or verify any return or to supply any information within the time required by the provisions of this chapter
26 is liable for the penalty imposed by 15-1-216. The department shall assess and collect any penalty in the same
27 manner as is provided in this chapter with regard to delinquent taxes."
28

29 **Section 30.** Section 15-31-551, MCA, is amended to read:

30 **"15-31-551. Certified copies of ~~corporation license~~ corporate income tax returns to taxpayer --**

1 **fee.** Certified copies of returns filed for ~~corporation license~~ corporate income tax under 15-31-111 may be
 2 furnished by the department to the taxpayer or the taxpayer's authorized representative upon payment of 50 cents
 3 for each page."

4

5 **Section 31.** Section 15-32-107, MCA, is amended to read:

6 **"15-32-107. Loans by utilities and financial institutions -- tax credit for interest differential for**
 7 **loans made prior to July 1, 1995.** (1) Except as provided in subsection (4), a public utility or a financial institution
 8 that lent money or made qualifying installations under this section as it read prior to July 1, 1995, may compute
 9 the difference between interest it actually receives on the transactions and the interest that would have been
 10 received at the prevailing average interest rate for home improvement loans, as prescribed in rules made by the
 11 public service commission. The utility may apply the difference so computed as a credit against its tax liability for
 12 the electrical energy producer's license tax under 15-51-101 or for the ~~corporation license~~ corporate income tax
 13 under chapter 31, part 1. The public service commission shall regulate rates in such a manner that a utility making
 14 loans under this section may not make a profit as the result of this section. The financial institution may apply the
 15 difference so computed as a credit against its tax liability for the ~~corporation license~~ corporate income tax under
 16 chapter 31, part 1.

17 (2) A utility may not claim a tax credit under this section exceeding \$750,000 in any tax year. A financial
 18 institution may not claim a tax credit under this section exceeding \$2,000 in any tax year.

19 (3) The public service commission may make rules to implement this section as it applies to public
 20 utilities only.

21 (4) A public utility whose purchases of or investments in conservation are placed in the rate base as
 22 provided in Title 69, chapter 3, part 7, may not receive a tax credit under subsection (1)."

23

24 **Section 32.** Section 15-50-207, MCA, is amended to read:

25 **"15-50-207. Credit against other taxes -- credit for personal property taxes and certain fees.** (1) (a)
 26 The additional license fees withheld or otherwise paid as provided in this chapter may be used as a credit on the
 27 contractor's ~~corporation license~~ corporate income tax provided for in chapter 31 of this title or on the contractor's
 28 income tax provided for in chapter 30, depending upon the type of tax the contractor is required to pay under the
 29 laws of the state.

30 (b) The credit allowed under this subsection (1) may be used as a carryforward against taxes imposed

1 by chapter 30 or 31 for the 5 succeeding tax years. The entire amount of the credit not used in the year earned
2 must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax
3 year.

4 (2) Personal property taxes and the fee in lieu of tax on buses, trucks having a manufacturer's rated
5 capacity of more than 1 ton, or truck tractors, as provided in 61-3-529, and the registration fee on light vehicles,
6 as provided in 61-3-321(2) and 61-3-562, paid in Montana on any personal property or vehicle of the contractor
7 that is used in the business of the contractor and is located within this state may be credited against the license
8 fees required under this chapter. However, in computing the tax credit allowed by this section against the
9 contractor's ~~corporation license tax~~ or income tax or corporate income tax, the tax credit against the license fees
10 required under this chapter may not be considered as license fees paid for the purpose of the income tax or
11 ~~corporation license~~ corporate income tax credit."
12

13 **Section 33.** Section 15-68-815, MCA, is amended to read:

14 **"15-68-815. Information -- confidentiality -- agreements with another state.** (1) (a) Except as
15 provided in subsections (2) through (4), it is unlawful for an employee of the department or any other public official
16 or public employee to divulge or otherwise make known information that is disclosed in a report or return required
17 to be filed under this chapter or information that concerns the affairs of the person making the return and that is
18 acquired from the person's records, officers, or employees in an examination or audit.

19 (b) This section may not be construed to prohibit the department from publishing statistics if they are
20 classified in a way that does not disclose the identity and content of any particular report or return. A person
21 violating the provisions of this section is subject to the penalty provided in 15-30-2618 or 15-31-511 for violating
22 the confidentiality of individual income tax or ~~corporation license~~ corporate income tax information.

23 (2) (a) The department may enter into an agreement with the taxing officials of another state for the
24 interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax
25 in order to promote fair and equitable administration of the laws and to eliminate double taxation.

26 (b) In order to implement the provisions of this chapter, the department may furnish information on a
27 reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within
28 the state receiving the information that are similar to this section.

29 (3) In order to facilitate processing of returns and payment of taxes required by this chapter, the
30 department may contract with vendors and may disclose data to the vendors. The data disclosed must be

1 administered by the vendor in a manner consistent with this section.

2 (4) This section may not be construed to limit the investigative authority of the legislative branch, as
3 provided in 5-11-106, 5-12-303, or 5-13-309."

4

5 **Section 34.** Section 20-9-630, MCA, is amended to read:

6 **"20-9-630. School district block grants.** (1) (a) The office of public instruction shall provide a block
7 grant to each school district based on:

8 (i) the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate ~~license~~
9 income taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property
10 tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999; and

11 (ii) any reimbursement to be made to a school district pursuant to subsection (2).

12 (b) Block grants must be calculated using the electronic reporting system that is used by the office of
13 public instruction and school districts. The electronic reporting system must be used to allocate the block grant
14 amount into each district's budget as an anticipated revenue source by fund.

15 (2) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section,
16 the office of public instruction shall determine the reimbursement amount as provided in the enactment and add
17 the appropriate amount to block grant distributions under this section. Except for the reimbursement made under
18 15-1-123(3)(b), the total of reimbursement distributions made pursuant to this subsection in a fiscal year must
19 be added to all other distributions to the school district in the fiscal year to determine the distribution for the
20 subsequent fiscal year.

21 (3) Each year, 70% of each district's block grant must be distributed in November and 30% of each
22 district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

23 (4) (a) The block grant for the district general fund is equal to the amount received in fiscal year 2011
24 by the district general fund from the block grants provided for in subsection (1) and the amount received by the
25 district general fund under subsection (2), except the amount received under 15-1-123(3)(b).

26 (b) The block grant for the district transportation fund is equal to the amount received in fiscal year 2011
27 by the district transportation fund from the block grants provided for in subsection (1) and the amount received
28 by the district transportation fund under subsection (2), except the amount received under 15-1-123(3)(b).

29 (c) (i) The combined fund block grant is equal to the amount received in fiscal year 2011 and the amount
30 received under subsection (2), except the amount received under 15-1-123(3)(b).

1 (ii) The school district may deposit the combined fund block grant into any budgeted fund of the district."
2

3

Section 35. Section 33-17-407, MCA, is amended to read:

4 **"33-17-407. Nonresident insurance producer to pay taxes -- annual report required.** (1) A
5 nonresident insurance producer is subject to personal income, business income, or corporate ~~license~~ income
6 taxes for all income earned on insurance policies issued to cover subjects or risks residing, located, or to be
7 performed in Montana and written within the boundaries of this state.

8 (2) A nonresident insurance producer shall file annually a Montana income tax return as required in Title
9 15."
10

11

Section 36. Section 33-27-103, MCA, is amended to read:

12 **"33-27-103. Definitions.** As used in 15-30-2118, 15-30-2141, 15-31-117, 15-31-118, and this chapter,
13 the following definitions apply:

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

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

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

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

24 (5) "Third party" means a person other than an employee or the management of a small business or of
25 a subsidiary or closely related enterprise of a small business."
26

27

NEW SECTION. Section 37. Name change -- directions to code commissioner. Wherever a
28 reference to the "corporation license tax" appears in legislation enacted by the 2013 legislature, the code
29 commissioner is directed to change it to a reference to the "corporate income tax".
30

