



AN ACT GENERALLY REVISING TAXATION TO PROMOTE NEW BUSINESS AND ECONOMIC ACTIVITY; PROVIDING FOR THE CREATION OF AN INCOME TAX CREDIT TO INCENTIVIZE MONTANA JOB GROWTH; PROVIDING FOR ADMINISTRATION BY THE DEPARTMENT OF LABOR AND INDUSTRY AND THE DEPARTMENT OF REVENUE; PROVIDING THAT THE CREDITS BE TAKEN AGAINST INDIVIDUAL INCOME TAX AND CORPORATE INCOME TAX LIABILITIES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 15-30-2303, 15-30-2357, 15-30-2618, AND 15-31-511, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES.

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

**Section 1. Employer job growth incentive tax credit -- administration.** (1) An employer that hires qualifying new employees is eligible for an annual job growth incentive tax credit against income taxes imposed pursuant to Title 15, chapter 30 or 31.

(2) The amount and duration of the credit is administered by the department of revenue as provided in [sections 2 and 3].

(3) A qualifying employer seeking approval to claim a credit shall apply for a credit certificate with the department for the preceding calendar year. The application must be submitted on a form prescribed by the department on which the employer:

- (a) identifies and describes the number of qualifying new employees hired;
- (b) provides necessary details to calculate the net employee growth and qualifying net employee growth;
- (c) provides documentation necessary to calculate the job growth incentive tax credit, including but not limited to the average yearly wage of each qualifying new employee; and

(d) submits any other information the department considers necessary for auditing purposes and to determine whether the employer qualifies for a credit certificate.

(4) After receiving an application, the department shall:

(a) provide the employer with a credit certificate, which must accompany the employer's tax return that is filed with the department of revenue; or

(b) deny an application for a credit certificate and provide the employer with the reasoning for the denial. Prior to issuing a denial, the department shall provide the employer with an opportunity to resolve deficiencies in the application.

(5) The department shall provide to the department of revenue a list of the qualifying employers approved for a credit certificate, the qualifying new employees employed by the qualifying employer, and the aggregate total of net employee growth and qualified net employee growth for qualified employers claiming the credit. The list must include the federal tax identification number of the qualifying employer and the name and social security number or federal tax identification number of the qualifying new employees that were utilized during the issuance of a credit certificate.

(6) The identity and social security number or federal tax identification number of individuals employed by the employer are subject to the provisions of 15-30-2618 and 15-31-511.

(7) The department may audit an employer applying for a credit certificate or who has obtained a credit certificate.

(8) By November 1 of each year, the department shall multiply the minimum yearly wage in subsection (10)(j)(i)(C) by the inflation factor for the following tax year and round the product to the nearest \$10. The resulting minimum yearly wage is effective for that following tax year and must be used in calculating the minimum yearly wage.

(9) The department may adopt rules necessary to administer this section.

(10) For the purposes of this section, the following definitions apply:

(a) "Business transfer" means any change in ownership or transfer of all or a material portion of the business to another entity or individual by entity merger, combination, reorganization, asset acquisition, transfer, or other similar business transaction in which an existing business is continued under new ownership or a different entity.

(b) "Credit certificate" means a statement issued by the department to a qualifying employer that provides the number of qualifying new employees hired or retained by the qualifying employer starting with calendar year 2022 and ending in calendar year 2028.

(c) "Department" means the department of labor and industry provided for in 2-15-1701.

(d) "Employer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by Title 15, chapters 30 and 31.

(e) "Inflation factor" means a number determined for each tax year by dividing the consumer price index as defined in 15-30-2101 for June of the previous tax year by the consumer price index for June 2021.

(f) "Net employee growth" means the difference between the total number of qualifying new employees employed by the employer in the state during any calendar year starting with calendar year 2022 and ending in calendar year 2028 and the total number of full-time equivalent employees that were employed by the employer or predecessor in the state during calendar year 2021.

(g) "Predecessor" means any entity or individual that operated a business prior to a business transfer to the employer.

(h) "Qualifying employer" means an employer with qualifying net employee growth.

(i) "Qualifying net employee growth" means:

(A) unless subsection (10)(i)(i)(B) applies, net employee growth equal to at least 10 qualifying new employees during the first year the credit is claimed and at least 15 total qualifying new employees during any subsequent calendar year;

(B) for a county with a population of 20,000 or less, net employee growth equal to at least 5 qualifying new employees during the first year the credit is claimed and at least 7 total qualifying new employees during any subsequent calendar year.

(ii) In order to qualify, the net employee growth must be associated with a project in the state that encourages, promotes, and stimulates economic development in the sectors of construction, natural resources, mining, agriculture, forestry, manufacturing, transportation, utilities, or outdoor recreation.

(j) (i) "Qualifying new employee" means an employee of a qualifying employer:

(A) who is hired in any calendar year starting with calendar year 2022 and ending in calendar year 2028;

- (B) who is employed for at least 6 months during the year for which the credit is granted; and
- (C) with a yearly wage of at least \$50,000, plus any benefits paid to other employees of the employer.
- (ii) The term does not include an employee:
  - (A) previously employed by the employer or a predecessor in the preceding 12 months; or
  - (B) hired to replace an employee of a predecessor.

**Section 2. Grow Montana jobs -- annual job growth incentive tax credit.** (1) Subject to the provisions of [section 1], a taxpayer is allowed an annual job growth incentive tax credit against the tax imposed by chapter 31 or this chapter for creating qualifying net employee growth in the state.

(2) The amount of the credit is equal to the number of qualifying new employees in the credit certificate multiplied by 50% of the taxpayer's total estimated taxes imposed on the taxpayer each year for the Montana source wages paid to qualifying new employees under the Federal Insurance Contributions Act, 26 U.S.C. 3111(a) and (b).

(3) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to succeeding tax years for a period not to exceed 10 years from the tax year the credit was claimed. The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be used first. Any credit remaining 10 years after the tax year for which the credit is based may not be refunded or credited to the taxpayer.

(4) The credit may be claimed for up to 7 years, but only in a tax year in which the department of labor and industry approved the credit by issuing the taxpayer with a credit certificate as provided in [section 1]. If a taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's return will be processed without regard to the credit.

(5) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for the calendar year that ends within the taxpayer's fiscal period.

(6) The department shall, after consultation with the department of labor and industry, prescribe a

form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for the proper administration of the credit.

(7) The department shall provide the department of labor and industry with an annual report detailing the tax credit provided to taxpayers for the previous year. The information provided to the department of labor and industry is subject to the provisions of 15-30-2618 and 15-31-511.

(8) A taxpayer claiming this credit may not claim the apprenticeship tax credit pursuant to sections 15-30-2357, 15-31-173, and 39-6-109 in the same tax year that this credit is claimed. This subsection does not prevent a credit carryover from this credit from being used in a tax year in which the apprenticeship tax credit is claimed.

(9) Each biennium, the department shall provide to the revenue interim committee information regarding all approvals granted and credit certificates issued, including the credits claimed, the names of the qualifying employers of the credits, and the amount of tax credits claimed. This information is not subject to the confidentiality requirements of 15-30-2618 or 15-31-511.

(10) For the purposes of this section, the terms "credit certificate", "qualifying employer", "qualifying net employee growth", and "qualifying new employee" have the same meaning as those terms are defined in [section 1].

**Section 3. Grow Montana jobs -- annual job growth incentive tax credit.** (1) There is an annual job growth incentive tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is allowable in the amount established pursuant to [section 2] when a taxpayer hires qualifying new employees in the state. The credit is administered as provided in [sections 1 and 2] and this section.

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

**Section 4. Employer job growth incentive tax credit -- administration.** (1) An employer that hires qualifying new employees is eligible for an annual job growth incentive tax credit against income taxes imposed pursuant to Title 15, chapter 30 or 31.

(2) The amount and duration of the credit is administered by the department of revenue as provided in [sections 5 and 6].

(3) A qualifying employer seeking approval to claim a credit shall apply for a credit certificate with the department for the preceding calendar year. The application must be submitted on a form prescribed by the department on which the employer:

- (a) identifies and describes the number of qualifying new employees hired;
- (b) provides necessary details to calculate the net employee growth and qualifying net employee growth;
- (c) provides documentation necessary to calculate the job growth incentive tax credit, including but not limited to the average yearly wage of each qualifying new employee; and
- (d) submits any other information the department considers necessary for auditing purposes and to determine whether the employer qualifies for a credit certificate.

(4) After receiving an application, the department shall:

- (a) provide the employer with a credit certificate, which must accompany the employer's tax return that is filed with the department of revenue; or
- (b) deny an application for a credit certificate and provide the employer with the reasoning for the denial. Prior to issuing a denial, the department shall provide the employer with an opportunity to resolve deficiencies in the application.

(5) The department shall provide to the department of revenue a list of the qualifying employers approved for a credit certificate, the qualifying new employees employed by the qualifying employer, and the aggregate total of net employee growth and qualified net employee growth for qualified employers claiming the credit. The list must include the federal tax identification number of the qualifying employer and the name and social security number or federal tax identification number of the qualifying new employees that were utilized during the issuance of a credit certificate.

(6) The identity and social security number or federal tax identification number of individuals employed by the employer are subject to the provisions of 15-30-2618 and 15-31-511.

(7) The department may audit an employer applying for a credit certificate or who has obtained a credit certificate.

(8) By November 1 of each year, the department shall multiply the minimum yearly wage in subsection (10)(j)(i)(C) by the inflation factor for the following tax year and round the product to the nearest \$10. The resulting minimum yearly wage is effective for that following tax year and must be used in calculating the minimum yearly wage.

(9) The department may adopt rules necessary to administer this section.

(10) For the purposes of this section, the following definitions apply:

(a) "Business transfer" means any change in ownership or transfer of all or a material portion of the business to another entity or individual by entity merger, combination, reorganization, asset acquisition, transfer, or other similar business transaction in which an existing business is continued under new ownership or a different entity.

(b) "Credit certificate" means a statement issued by the department to a qualifying employer that provides the number of qualifying new employees hired or retained by the qualifying employer starting with calendar year 2022 and ending in calendar year 2028.

(c) "Department" means the department of labor and industry provided for in 2-15-1701.

(d) "Employer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by Title 15, chapters 30 and 31.

(e) "Inflation factor" means a number determined for each tax year by dividing the consumer price index as defined in 15-30-2101 for June of the previous tax year by the consumer price index for June 2021.

(f) "Net employee growth" means the difference between the total number of qualifying new employees employed by the employer in the state during any calendar year starting with calendar year 2022 and ending in calendar year 2028 and the total number of full-time equivalent employees that were employed by the employer or predecessor in the state during calendar year 2021.

(g) "Predecessor" means any entity or individual that operated a business prior to a business transfer to the employer.

(h) "Qualifying employer" means an employer with qualifying net employee growth.

(i) (i) "Qualifying net employee growth" means:

(A) unless subsection (10)(i)(i)(B) applies, net employee growth equal to at least 10 qualifying new employees during the first year the credit is claimed and at least 15 total qualifying new employees during any

subsequent calendar year;

(B) for a county with a population of 20,000 or less, net employee growth equal to at least 5 qualifying new employees during the first year the credit is claimed and at least 7 total qualifying new employees during any subsequent calendar year.

(ii) In order to qualify, the net employee growth must be associated with a project in the state that encourages, promotes, and stimulates economic development in the sectors of construction, natural resources, mining, agriculture, forestry, manufacturing, transportation, utilities, or outdoor recreation.

(j) (i) "Qualifying new employee" means an employee of a qualifying employer:

(A) who is hired in any calendar year starting with calendar year 2022 and ending in calendar year 2028;

(B) who is employed for at least 6 months during the year for which the credit is granted; and

(C) with a yearly wage of at least \$50,000, plus any benefits paid to other employees of the employer.

(ii) The term does not include an employee:

(A) previously employed by the employer or a predecessor in the preceding 12 months; or

(B) hired to replace an employee of a predecessor.

**Section 5. Grow Montana jobs -- annual job growth incentive tax credit.** (1) Subject to the provisions of [section 4], a taxpayer is allowed an annual job growth incentive tax credit against the tax imposed by chapter 31 or this chapter for creating qualifying net employee growth in the state.

(2) The amount of the credit is equal to the number of qualifying new employees in the credit certificate multiplied by 50% of the taxpayer's total estimated taxes imposed on the taxpayer each year for the Montana source wages paid to qualifying new employees under the Federal Insurance Contributions Act, 26 U.S.C. 3111(a) and (b).

(3) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to succeeding tax years for a period not to exceed 10 years from the tax year the credit was claimed. The entire amount of unused credit must be carried



forward to the earliest of the succeeding years, and the oldest available unused credit must be used first. Any credit remaining 10 years after the tax year for which the credit is based may not be refunded or credited to the taxpayer.

(4) The credit may be claimed for up to 7 years, but only in a tax year in which the department of labor and industry approved the credit by issuing the taxpayer with a credit certificate as provided in [section 4]. If a taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's return will be processed without regard to the credit.

(5) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for the calendar year that ends within the taxpayer's fiscal period.

(6) The department shall, after consultation with the department of labor and industry, prescribe a form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for the proper administration of the credit.

(7) The department shall provide the department of labor and industry with an annual report detailing the tax credit provided to taxpayers for the previous year. The information provided to the department of labor and industry is subject to the provisions of 15-30-2618 and 15-31-511.

(8) A taxpayer claiming this credit may not claim the apprenticeship tax credit pursuant to sections 15-30-2357, 15-31-173, and 39-6-109 in the same tax year that this credit is claimed. This subsection does not prevent a credit carryover from this credit from being used in a tax year in which the apprenticeship tax credit is claimed.

(9) Each biennium, the department shall provide to the revenue interim committee information regarding all approvals granted and credit certificates issued, including the credits claimed, the names of the qualifying employers of the credits, and the amount of tax credits claimed. This information is not subject to the confidentiality requirements of 15-30-2618 or 15-31-511.

(10) For the purposes of this section, the terms "credit certificate", "qualifying employer", "qualifying net employee growth", and "qualifying new employee" have the same meaning as those terms are defined in [section 4].

**Section 6. Grow Montana jobs -- annual job growth incentive tax credit.** (1) There is an annual

job growth incentive tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is allowable in the amount established pursuant to [section 5] when a taxpayer hires qualifying new employees in the state. The credit is administered as provided in [sections 4 and 5] and this section.

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

**Section 7. Employer job growth incentive tax credit -- administration.** (1) An employer that hires qualifying new employees is eligible for an annual job growth incentive tax credit against income taxes imposed pursuant to Title 15, chapter 30 or 31.

(2) The amount and duration of the credit is administered by the department of revenue as provided in [sections 8 and 9].

(3) A qualifying employer seeking approval to claim a credit shall apply for a credit certificate with the department for the preceding calendar year. The application must be submitted on a form prescribed by the department on which the employer:

- (a) identifies and describes the number of qualifying new employees hired;
- (b) provides necessary details to calculate the net employee growth and qualifying net employee growth;
- (c) provides documentation necessary to calculate the job growth incentive tax credit, including but not limited to the average yearly wage of each qualifying new employee; and
- (d) submits any other information the department considers necessary for auditing purposes and to determine whether the employer qualifies for a credit certificate.

(4) After receiving an application, the department shall:

- (a) provide the employer with a credit certificate, which must accompany the employer's tax return that is filed with the department of revenue; or
- (b) deny an application for a credit certificate and provide the employer with the reasoning for the denial. Prior to issuing a denial, the department shall provide the employer with an opportunity to resolve deficiencies in the application.

(5) The department shall provide to the department of revenue a list of the qualifying employers approved for a credit certificate, the qualifying new employees employed by the qualifying employer, and the aggregate total of net employee growth and qualified net employee growth for qualified employers claiming the credit. The list must include the federal tax identification number of the qualifying employer and the name and social security number or federal tax identification number of the qualifying new employees that were utilized during the issuance of a credit certificate.

(6) The identity and social security number or federal tax identification number of individuals employed by the employer are subject to the provisions of 15-30-2618 and 15-31-511.

(7) The department may audit an employer applying for a credit certificate or who has obtained a credit certificate.

(8) By November 1 of each year, the department shall multiply the minimum yearly wage in subsection (10)(j)(i)(C) by the inflation factor for the following tax year and round the product to the nearest \$10. The resulting minimum yearly wage is effective for that following tax year and must be used in calculating the minimum yearly wage.

(9) The department may adopt rules necessary to administer this section.

(10) For the purposes of this section, the following definitions apply:

(a) "Business transfer" means any change in ownership or transfer of all or a material portion of the business to another entity or individual by entity merger, combination, reorganization, asset acquisition, transfer, or other similar business transaction in which an existing business is continued under new ownership or a different entity.

(b) "Credit certificate" means a statement issued by the department to a qualifying employer that provides the number of qualifying new employees hired or retained by the qualifying employer starting with calendar year 2022 and ending in calendar year 2028.

(c) "Department" means the department of labor and industry provided for in 2-15-1701.

(d) "Employer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by Title 15, chapters 30 and 31.

(e) "Inflation factor" means a number determined for each tax year by dividing the consumer price index as defined in 15-30-2101 for June of the previous tax year by the consumer price index for June 2021.

(f) "Net employee growth" means the difference between the total number of qualifying new employees employed by the employer in the state during any calendar year starting with calendar year 2022 and ending in calendar year 2028 and the total number of full-time equivalent employees that were employed by the employer or predecessor in the state during calendar year 2021.

(g) "Predecessor" means any entity or individual that operated a business prior to a business transfer to the employer.

(h) "Qualifying employer" means an employer with qualifying net employee growth.

(i) (i) "Qualifying net employee growth" means:

(A) unless subsection (10)(i)(i)(B) applies, net employee growth equal to at least 10 qualifying new employees during the first year the credit is claimed and at least 15 total qualifying new employees during any subsequent calendar year;

(B) for a county with a population of 20,000 or less, net employee growth equal to at least 5 qualifying new employees during the first year the credit is claimed and at least 7 total qualifying new employees during any subsequent calendar year.

(ii) In order to qualify, the net employee growth must be associated with a project in the state that encourages, promotes, and stimulates economic development in the sectors of construction, natural resources, mining, agriculture, forestry, manufacturing, transportation, utilities, or outdoor recreation.

(j) (i) "Qualifying new employee" means an employee of a qualifying employer:

(A) who is hired in any calendar year starting with calendar year 2022 and ending in calendar year 2028;

(B) who is employed for at least 6 months during the year for which the credit is granted; and

(C) with a yearly wage of at least \$50,000, plus any benefits paid to other employees of the employer.

(ii) The term does not include an employee:

(A) previously employed by the employer or a predecessor in the preceding 12 months; or

(B) hired to replace an employee of a predecessor.

**Section 8. Grow Montana jobs -- annual job growth incentive tax credit.** (1) Subject to the provisions of [section 7], a taxpayer is allowed an annual job growth incentive tax credit against the tax imposed

by chapter 31 or this chapter for creating qualifying net employee growth in the state.

(2) The amount of the credit is equal to the number of qualifying new employees in the credit certificate multiplied by 50% of the taxpayer's total estimated taxes imposed on the taxpayer each year for the Montana source wages paid to qualifying new employees under the Federal Insurance Contributions Act, 26 U.S.C. 3111(a) and (b).

(3) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to succeeding tax years for a period not to exceed 10 years from the tax year the credit was claimed. The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be used first. Any credit remaining 10 years after the tax year for which the credit is based may not be refunded or credited to the taxpayer.

(4) The credit may be claimed for up to 7 years, but only in a tax year in which the department of labor and industry approved the credit by issuing the taxpayer with a credit certificate as provided in [section 7]. If a taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's return will be processed without regard to the credit.

(5) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for the calendar year that ends within the taxpayer's fiscal period.

(6) The department shall, after consultation with the department of labor and industry, prescribe a form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for the proper administration of the credit.

(7) The department shall provide the department of labor and industry with an annual report detailing the tax credit provided to taxpayers for the previous year. The information provided to the department of labor and industry is subject to the provisions of 15-30-2618 and 15-31-511.

(8) A taxpayer claiming this credit may not claim the apprenticeship tax credit pursuant to sections 15-30-2357, 15-31-173, and 39-6-109 in the same tax year that this credit is claimed. This subsection does not prevent a credit carryover from this credit from being used in a tax year in which the apprenticeship tax credit is

claimed.

(9) Each biennium, the department shall provide to the revenue interim committee information regarding all approvals granted and credit certificates issued, including the credits claimed, the names of the qualifying employers of the credits, and the amount of tax credits claimed. This information is not subject to the confidentiality requirements of 15-30-2618 or 15-31-511.

(10) For the purposes of this section, the terms "credit certificate", "qualifying employer", "qualifying net employee growth", and "qualifying new employee" have the same meaning as those terms are defined in [section 7].

**Section 9. Grow Montana jobs -- annual job growth incentive tax credit.** (1) There is an annual job growth incentive tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is allowable in the amount established pursuant to [section 8] when a taxpayer hires qualifying new employees in the state. The credit is administered as provided in [sections 7 and 8] and this section.

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

**Section 10. Employer job growth incentive tax credit -- administration.** (1) An employer that hires qualifying new employees is eligible for an annual job growth incentive tax credit against income taxes imposed pursuant to Title 15, chapter 30 or 31.

(2) The amount and duration of the credit is administered by the department of revenue as provided in [sections 11 and 12].

(3) A qualifying employer seeking approval to claim a credit shall apply for a credit certificate with the department for the preceding calendar year. The application must be submitted on a form prescribed by the department on which the employer:

- (a) identifies and describes the number of qualifying new employees hired;
- (b) provides necessary details to calculate the net employee growth and qualifying net employee growth;

(c) provides documentation necessary to calculate the job growth incentive tax credit, including but not limited to the average yearly wage of each qualifying new employee; and

(d) submits any other information the department considers necessary for auditing purposes and to determine whether the employer qualifies for a credit certificate.

(4) After receiving an application, the department shall:

(a) provide the employer with a credit certificate, which must accompany the employer's tax return that is filed with the department of revenue; or

(b) deny an application for a credit certificate and provide the employer with the reasoning for the denial. Prior to issuing a denial, the department shall provide the employer with an opportunity to resolve deficiencies in the application.

(5) The department shall provide to the department of revenue a list of the qualifying employers approved for a credit certificate, the qualifying new employees employed by the qualifying employer, and the aggregate total of net employee growth and qualified net employee growth for qualified employers claiming the credit. The list must include the federal tax identification number of the qualifying employer and the name and social security number or federal tax identification number of the qualifying new employees that were utilized during the issuance of a credit certificate.

(6) The identity and social security number or federal tax identification number of individuals employed by the employer are subject to the provisions of 15-30-2618 and 15-31-511.

(7) The department may audit an employer applying for a credit certificate or who has obtained a credit certificate.

(8) By November 1 of each year, the department shall multiply the minimum yearly wage in subsection (10)(j)(i)(C) by the inflation factor for the following tax year and round the product to the nearest \$10. The resulting minimum yearly wage is effective for that following tax year and must be used in calculating the minimum yearly wage.

(9) The department may adopt rules necessary to administer this section.

(10) For the purposes of this section, the following definitions apply:

(a) "Business transfer" means any change in ownership or transfer of all or a material portion of the business to another entity or individual by entity merger, combination, reorganization, asset acquisition,

transfer, or other similar business transaction in which an existing business is continued under new ownership or a different entity.

(b) "Credit certificate" means a statement issued by the department to a qualifying employer that provides the number of qualifying new employees hired or retained by the qualifying employer starting with calendar year 2022 and ending in calendar year 2028.

(c) "Department" means the department of labor and industry provided for in 2-15-1701.

(d) "Employer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by Title 15, chapters 30 and 31.

(e) "Inflation factor" means a number determined for each tax year by dividing the consumer price index as defined in 15-30-2101 for June of the previous tax year by the consumer price index for June 2021.

(f) "Net employee growth" means the difference between the total number of qualifying new employees employed by the employer in the state during any calendar year starting with calendar year 2022 and ending in calendar year 2028 and the total number of full-time equivalent employees that were employed by the employer or predecessor in the state during calendar year 2021.

(g) "Predecessor" means any entity or individual that operated a business prior to a business transfer to the employer.

(h) "Qualifying employer" means an employer with qualifying net employee growth.

(i) (i) "Qualifying net employee growth" means:

(A) unless subsection (10)(i)(i)(B) applies, net employee growth equal to at least 10 qualifying new employees during the first year the credit is claimed and at least 15 total qualifying new employees during any subsequent calendar year;

(B) for a county with a population of 20,000 or less, net employee growth equal to at least 5 qualifying new employees during the first year the credit is claimed and at least 7 total qualifying new employees during any subsequent calendar year.

(ii) In order to qualify, the net employee growth must be associated with a project in the state that encourages, promotes, and stimulates economic development in the sectors of construction, natural resources, mining, agriculture, forestry, manufacturing, transportation, utilities, or outdoor recreation.

(j) (i) "Qualifying new employee" means an employee of a qualifying employer:



- (A) who is hired in any calendar year starting with calendar year 2022 and ending in calendar year 2028;
  - (B) who is employed for at least 6 months during the year for which the credit is granted; and
  - (C) with a yearly wage of at least \$50,000, plus any benefits paid to other employees of the employer.
- (ii) The term does not include an employee:
- (A) previously employed by the employer or a predecessor in the preceding 12 months; or
  - (B) hired to replace an employee of a predecessor.

**Section 11. Grow Montana jobs -- annual job growth incentive tax credit.** (1) Subject to the provisions of [section 10], a taxpayer is allowed an annual job growth incentive tax credit against the tax imposed by chapter 31 or this chapter for creating qualifying net employee growth in the state.

(2) The amount of the credit is equal to the number of qualifying new employees in the credit certificate multiplied by 50% of the taxpayer's total estimated taxes imposed on the taxpayer each year for the Montana source wages paid to qualifying new employees under the Federal Insurance Contributions Act, 26 U.S.C. 3111(a) and (b).

(3) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to succeeding tax years for a period not to exceed 10 years from the tax year the credit was claimed. The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be used first. Any credit remaining 10 years after the tax year for which the credit is based may not be refunded or credited to the taxpayer.

(4) The credit may be claimed for up to 7 years, but only in a tax year in which the department of labor and industry approved the credit by issuing the taxpayer with a credit certificate as provided in [section 10]. If a taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's return will be processed without regard to the credit.

(5) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for

the calendar year that ends within the taxpayer's fiscal period.

(6) The department shall, after consultation with the department of labor and industry, prescribe a form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for the proper administration of the credit.

(7) The department shall provide the department of labor and industry with an annual report detailing the tax credit provided to taxpayers for the previous year. The information provided to the department of labor and industry is subject to the provisions of 15-30-2618 and 15-31-511.

(8) A taxpayer claiming this credit may not claim the apprenticeship tax credit pursuant to sections 15-30-2357, 15-31-173, and 39-6-109 in the same tax year that this credit is claimed. This subsection does not prevent a credit carryover from this credit from being used in a tax year in which the apprenticeship tax credit is claimed.

(9) Each biennium, the department shall provide to the revenue interim committee information regarding all approvals granted and credit certificates issued, including the credits claimed, the names of the qualifying employers of the credits, and the amount of tax credits claimed. This information is not subject to the confidentiality requirements of 15-30-2618 or 15-31-511.

(10) For the purposes of this section, the terms "credit certificate", "qualifying employer", "qualifying net employee growth", and "qualifying new employee" have the same meaning as those terms are defined in [section 10].

**Section 12. Grow Montana jobs -- annual job growth incentive tax credit.** (1) There is an annual job growth incentive tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is allowable in the amount established pursuant to [section 11] when a taxpayer hires qualifying new employees in the state. The credit is administered as provided in [sections 10 and 11] and this section.

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

**Section 13. Employer job growth incentive tax credit -- administration.** (1) An employer that

hires qualifying new employees is eligible for an annual job growth incentive tax credit against income taxes imposed pursuant to Title 15, chapter 30 or 31.

(2) The amount and duration of the credit is administered by the department of revenue as provided in [sections 14 and 15].

(3) A qualifying employer seeking approval to claim a credit shall apply for a credit certificate with the department for the preceding calendar year. The application must be submitted on a form prescribed by the department on which the employer:

- (a) identifies and describes the number of qualifying new employees hired;
- (b) provides necessary details to calculate the net employee growth and qualifying net employee growth;
- (c) provides documentation necessary to calculate the job growth incentive tax credit, including but not limited to the average yearly wage of each qualifying new employee; and
- (d) submits any other information the department considers necessary for auditing purposes and to determine whether the employer qualifies for a credit certificate.

(4) After receiving an application, the department shall:

- (a) provide the employer with a credit certificate, which must accompany the employer's tax return that is filed with the department of revenue; or
- (b) deny an application for a credit certificate and provide the employer with the reasoning for the denial. Prior to issuing a denial, the department shall provide the employer with an opportunity to resolve deficiencies in the application.

(5) The department shall provide to the department of revenue a list of the qualifying employers approved for a credit certificate, the qualifying new employees employed by the qualifying employer, and the aggregate total of net employee growth and qualified net employee growth for qualified employers claiming the credit. The list must include the federal tax identification number of the qualifying employer and the name and social security number or federal tax identification number of the qualifying new employees that were utilized during the issuance of a credit certificate.

(6) The identity and social security number or federal tax identification number of individuals employed by the employer are subject to the provisions of 15-30-2618 and 15-31-511.

(7) The department may audit an employer applying for a credit certificate or who has obtained a credit certificate.

(8) By November 1 of each year, the department shall multiply the minimum yearly wage in subsection (10)(j)(i)(C) by the inflation factor for the following tax year and round the product to the nearest \$10. The resulting minimum yearly wage is effective for that following tax year and must be used in calculating the minimum yearly wage.

(9) The department may adopt rules necessary to administer this section.

(10) For the purposes of this section, the following definitions apply:

(a) "Business transfer" means any change in ownership or transfer of all or a material portion of the business to another entity or individual by entity merger, combination, reorganization, asset acquisition, transfer, or other similar business transaction in which an existing business is continued under new ownership or a different entity.

(b) "Credit certificate" means a statement issued by the department to a qualifying employer that provides the number of qualifying new employees hired or retained by the qualifying employer starting with calendar year 2022 and ending in calendar year 2028.

(c) "Department" means the department of labor and industry provided for in 2-15-1701.

(d) "Employer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by Title 15, chapters 30 and 31.

(e) "Inflation factor" means a number determined for each tax year by dividing the consumer price index as defined in 15-30-2101 for June of the previous tax year by the consumer price index for June 2021.

(f) "Net employee growth" means the difference between the total number of qualifying new employees employed by the employer in the state during any calendar year starting with calendar year 2022 and ending in calendar year 2028 and the total number of full-time equivalent employees that were employed by the employer or predecessor in the state during calendar year 2021.

(g) "Predecessor" means any entity or individual that operated a business prior to a business transfer to the employer.

(h) "Qualifying employer" means an employer with qualifying net employee growth.

(i) (i) "Qualifying net employee growth" means:

(A) unless subsection (10)(i)(i)(B) applies, net employee growth equal to at least 10 qualifying new employees during the first year the credit is claimed and at least 15 total qualifying new employees during any subsequent calendar year;

(B) for a county with a population of 20,000 or less, net employee growth equal to at least 5 qualifying new employees during the first year the credit is claimed and at least 7 total qualifying new employees during any subsequent calendar year.

(ii) In order to qualify, the net employee growth must be associated with a project in the state that encourages, promotes, and stimulates economic development in the sectors of construction, natural resources, mining, agriculture, forestry, manufacturing, transportation, utilities, or outdoor recreation.

(j) (i) "Qualifying new employee" means an employee of a qualifying employer:

(A) who is hired in any calendar year starting with calendar year 2022 and ending in calendar year 2028;

(B) who is employed for at least 6 months during the year for which the credit is granted; and

(C) with a yearly wage of at least \$50,000, plus any benefits paid to other employees of the employer.

(ii) The term does not include an employee:

(A) previously employed by the employer or a predecessor in the preceding 12 months; or

(B) hired to replace an employee of a predecessor.

**Section 14. Grow Montana jobs -- annual job growth incentive tax credit.** (1) Subject to the provisions of [section 13], a taxpayer is allowed an annual job growth incentive tax credit against the tax imposed by chapter 31 or this chapter for creating qualifying net employee growth in the state.

(2) The amount of the credit is equal to the number of qualifying new employees in the credit certificate multiplied by 50% of the taxpayer's total estimated taxes imposed on the taxpayer each year for the Montana source wages paid to qualifying new employees under the Federal Insurance Contributions Act, 26 U.S.C. 3111(a) and (b).

(3) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess

attributable to the current tax year's credit is a credit carryover to succeeding tax years for a period not to exceed 10 years from the tax year the credit was claimed. The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be used first. Any credit remaining 10 years after the tax year for which the credit is based may not be refunded or credited to the taxpayer.

(4) The credit may be claimed for up to 7 years, but only in a tax year in which the department of labor and industry approved the credit by issuing the taxpayer with a credit certificate as provided in [section 10]. If a taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's return will be processed without regard to the credit.

(5) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for the calendar year that ends within the taxpayer's fiscal period.

(6) The department shall, after consultation with the department of labor and industry, prescribe a form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for the proper administration of the credit.

(7) The department shall provide the department of labor and industry with an annual report detailing the tax credit provided to taxpayers for the previous year. The information provided to the department of labor and industry is subject to the provisions of 15-30-2618 and 15-31-511.

(8) A taxpayer claiming this credit may not claim the apprenticeship tax credit pursuant to sections 15-30-2357, 15-31-173, and 39-6-109 in the same tax year that this credit is claimed. This subsection does not prevent a credit carryover from this credit from being used in a tax year in which the apprenticeship tax credit is claimed.

(9) Each biennium, the department shall provide to the revenue interim committee information regarding all approvals granted and credit certificates issued, including the credits claimed, the names of the qualifying employers of the credits, and the amount of tax credits claimed. This information is not subject to the confidentiality requirements of 15-30-2618 or 15-31-511.

(10) For the purposes of this section, the terms "credit certificate", "qualifying employer", "qualifying net employee growth", and "qualifying new employee" have the same meaning as those terms are defined in [section 13].

**Section 15. Grow Montana jobs -- annual job growth incentive tax credit.** (1) There is an annual job growth incentive tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is allowable in the amount established pursuant to [section 14] when a taxpayer hires qualifying new employees in the state. The credit is administered as provided in [sections 13 and 14] and this section.

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

**Section 16.** Section 15-30-2303, MCA, is amended to read:

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

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

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

- (a) the credit for commercial or net metering system investment provided for in Title 15, chapter 32, part 4;
- (b) the credit for qualified elderly care expenses provided for in 15-30-2366;
- (c) the credit for dependent care assistance and referral services provided for in 15-30-2373 and 15-31-131;
- (d) the credit for contributions to a university or college foundation or endowment provided for in 15-30-2326, 15-31-135, and 15-31-136;
- (e) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-30-3110, and 15-31-158; and

- (f) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-3111, and 15-31-159.
- (3) The following tax credits must be reviewed during the biennium commencing July 1, 2023:
- (a) the credit for providing disability insurance for employees provided for in 15-30-2367 and 15-31-132;
- (b) the credit for installation of a geothermal system provided for in 15-32-115;
- (c) the credit for property to recycle or manufacture using recycled material provided for in Title 15, chapter 32, part 6;
- (d) the credit for converting a motor vehicle to alternative fuel provided for in 15-30-2320 and 15-31-137;
- (e) the credit for infrastructure use fees provided for in 17-6-316; and
- (f) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-2329, 15-31-161, and 15-31-162.
- (4) The following tax credits must be reviewed during the biennium commencing July 1, 2025:
- (a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;
- (b) the credit for mineral or coal exploration provided for in Title 15, chapter 32, part 5;
- (c) the credit for capital gains provided for in 15-30-2301;
- (d) the credit for a new employee in an empowerment zone provided for in 15-30-2356 and 15-31-134;
- (e) the credit for an oilseed crush facility provided for in 15-32-701; ~~and~~
- (f) the credit for unlocking state lands provided for in 15-30-2380; and
- (g) the job growth incentive tax credit provided for in [sections 2, 3, 5, 6, 8, 9, 11, 12, 14, and 15].
- (5) The following tax credits must be reviewed during the biennium commencing July 1, 2027:
- (a) the biodiesel or biolubricant production facility credit provided for in 15-32-702;
- (b) the biodiesel blending and storage credit provided for in 15-32-703;
- (c) the adoption tax credit provided for in 15-30-2364;
- (d) the credit for providing temporary emergency lodging provided for in 15-30-2381 and 15-31-171;
- (e) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and



15-31-173;

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

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

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

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

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

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

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

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

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

**Section 17.** Section 15-30-2357, MCA, is amended to read:

**"15-30-2357. Tax credit for hiring registered apprentice or veteran apprentice.** (1) Subject to the provisions of [sections 2(8), 5(8), 8(8), 11(8), and 14(8)] and 39-6-109, a taxpayer is allowed a credit against the tax imposed by chapter 31 or this chapter for employing a registered apprentice or registered veteran apprentice who works in Montana.

(2) The credit may not exceed the taxpayer's tax liability and may not be carried forward or carried back.

(3) The credit may be claimed only in the tax year in which the department of labor and industry approved the credit as provided in 39-6-109(4). If a taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's return must be processed without regard to the credit.

(4) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for

the calendar year that ends within the taxpayer's fiscal period.

(5) Subject to the probationary period provided for in 39-6-109, if an employer employs an apprentice for less than the full preceding calendar year, the employer may apply for the full credit for the year in which the apprentice was employed.

(6) The department shall, after consultation with the department of labor and industry, prescribe a form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for the proper administration of the credit.

(7) The department shall provide the department of labor and industry an annual report detailing the tax credit provided to employers for the previous year. The information provided to the department of labor and industry is subject to the provisions of 15-30-2618 and 15-31-511.

(8) The department may adopt rules, prepare forms, and maintain records that are necessary to implement this credit."

**Section 18.** Section 15-30-2618, MCA, is amended to read:

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

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

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

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

(b) The court may require the production of and may admit in evidence only as much of the reports or

of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

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

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

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

(d) the delivery of information to the revenue interim committee relating to the annual job growth incentive tax credit as provided in [sections 2, 5, 8, 11, and 14].

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

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

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

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

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

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

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

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

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

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

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

(c) to the department of labor and industry for the purpose of:

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

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

(iii) administering the annual job growth incentive tax credit provided for in [sections 1, 4, 7, 10, and 13], taxpayer and employee information necessary to implement [sections 2, 3, 5, 6, 8, 9, 11, 12, 14, and 15];

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

fishing licenses;

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

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

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

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

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

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

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

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

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

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

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

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

(3) This section does not prohibit:

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

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

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

(d) the delivery of information to the revenue interim committee relating to the annual job growth incentive tax credit as provided in [sections 2, 5, 8, 11, and 14].

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

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

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

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

(a) the department of labor and industry to be used for the purpose of investigation and prevention of

noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

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

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

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

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

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

(c) to the department of labor and industry for the purpose of:

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

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

(iii) administering the annual job growth incentive tax credit provided for in [sections 1, 4, 7, 10, and 13], taxpayer and employee information necessary to implement [sections 2, 3, 5, 6, 8, 9, 11, 12, 14, and 15];

(d) to the department of fish, wildlife, and parks specific information that is available from income tax

returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

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

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

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

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

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

**Section 19.** Section 15-31-511, MCA, is amended to read:

**"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

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

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

(2) (a) An officer or employee charged with custody of returns and reports required by this chapter may not be ordered to produce any of them or evidence of anything contained in them in any administrative proceeding or action or proceeding in any court, except:

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



or

(ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or information contained in them is ordered, the court shall limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the action or proceeding.

(3) This section does not prohibit:

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

(b) the publication of statistics prepared in a manner that prevents the identification of particular returns, reports, or items from returns or reports;

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

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

(e) the delivery of information to the revenue interim committee relating to the annual job growth incentive tax credit as provided in [sections 2, 5, 8, 11, and 14]; or

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

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

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

subsection (1);

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

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

(d) furnish to the superintendent of public instruction information required under 20-9-905;

(e) exchange with the department of labor and industry:

(i) taxpayer and apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109; and

(ii) taxpayer and employee information necessary to administer the annual job growth incentive tax credit provided for in [sections 1 through 15]; and

(f) provide the department of public health and human services with the information necessary to verify, as required under 53-6-133, the income reported by an applicant for medical assistance.

(5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or public employee is convicted of violating this section, the person is dismissed from office or employment and may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction. (Subsection (4)(d) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015; subsection (4)(f) terminates June 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019.)"

**Section 20. Appropriation.** (1) There is appropriated \$353,000 from the general fund to the department of revenue for the fiscal year beginning July 1, 2021, for the purposes of complying with [this act].

(2) There is appropriated \$271,895 from the general fund to the department of revenue for the fiscal

year beginning July 1, 2022, for the purposes of complying with [this act].

**Section 21. Codification instruction.** (1) [Sections 1, 4, 7, 10, and 13] are intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [sections 1, 4, 7, 10, and 13].

(2) [Sections 2, 5, 8, 11, and 14] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 2, 5, 8, 11, and 14].

(3) [Sections 3, 6, 9, 12, and 15] are intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [sections 3, 6, 9, 12, and 15].

**Section 22. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 23. Effective dates -- applicability.** (1) Except as provided in subsections (2) through (6), [this act] is effective July 1, 2021.

(2) [Sections 1 through 3] are effective October 1, 2021, and apply to the income tax year beginning after December 31, 2021.

(3) [Sections 4 through 6] are effective October 1, 2022, and apply to the income tax year beginning after December 31, 2022.

(4) [Sections 7 through 9] are effective October 1, 2023, and apply to the income tax year beginning after December 31, 2023.

(5) [Sections 10 through 12] are effective October 1, 2024, and apply to the income tax year beginning after December 31, 2024.

(6) [Sections 13 through 15] are effective October 1, 2025, and apply to income tax years beginning after December 31, 2025.

**Section 24. Termination.** (1) Except as provided in subsections (2) through (6), [this act] terminates December 31, 2028.

- (2) [Sections 1 through 3] terminate December 31, 2022.
- (3) [Sections 4 through 6] terminate December 31, 2023.
- (4) [Sections 7 through 9] terminate December 31, 2024.
- (5) [Sections 10 through 12] terminate December 31, 2025.
- (6) [Section 25] terminates January 1, 2025.

**Section 25. Contingent termination -- legislative intent -- specific findings -- report to legislative finance committee.** (1) The legislature intends to provide the tax relief provided by [this act] while also preventing the loss of federal funds that are available to the state as part of the recently enacted American Rescue Plan Act, Public Law 117-2. The contingent termination provisions in subsections (2) through (5) are limited to the duration of time established by each subsection and are necessary based on the lack of information available to the legislature from the federal government at the time of enactment of [this act].

(2) [Sections 1 through 3] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made in calendar year 2021.

(3) [Sections 4 through 6] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2022, and December 31, 2022.

(4) [Sections 7 through 9] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2023, and December 31, 2023.

(5) [Sections 10 through 12] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2024, and December 31, 2024.

(6) (a) The budget director shall continually evaluate whether implementation of a section of [this act] will:

- (i) result in a reduction of funds from the American Rescue Plan Act; or
- (ii) require the state to repay or refund to the federal government pursuant to the American Rescue Plan Act.

- (b) The budget director shall consider guidance from:
  - (i) the federal government about the American Rescue Plan Act;
  - (ii) court decisions about the American Rescue Plan Act;
  - (iii) amendments to the American Rescue Plan Act;
  - (iv) any information provided by the attorney general; and
  - (v) other relevant information about the American Rescue Plan Act.

(c) If the budget director determines that the implementation of a section of [this act] may satisfy the criteria in subsection (6)(a) based on the guidance in subsection (6)(b), the budget director shall notify the legislative finance committee of the preliminary determination. The budget director's notification of the preliminary determination may occur after January 1 but no later than December 10 of each of the calendar years 2021, 2022, 2023, and 2024. Within 20 days of notification, the legislative finance committee shall provide the budget director with any recommendations concerning the preliminary determination. The budget director shall consider any recommendations of the legislative finance committee.

(7) If the budget director determines that the implementation of a section of [this act] would more likely than not satisfy the criteria in subsection (6)(a) based on the guidance in subsection (6)(b) and the recommendations of the legislative finance committee in subsection (6)(c), the budget director shall provide certification in writing to the legislative finance committee and the code commissioner of the occurrence of the relevant contingency provided for in subsections (2) through (5).

- END -

I hereby certify that the within bill,  
HB 629, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

HOUSE BILL NO. 629

INTRODUCED BY D. FERN, M. BLASDEL, J. HAMILTON

AN ACT GENERALLY REVISING TAXATION TO PROMOTE NEW BUSINESS AND ECONOMIC ACTIVITY; PROVIDING FOR THE CREATION OF AN INCOME TAX CREDIT TO INCENTIVIZE MONTANA JOB GROWTH; PROVIDING FOR ADMINISTRATION BY THE DEPARTMENT OF LABOR AND INDUSTRY AND THE DEPARTMENT OF REVENUE; PROVIDING THAT THE CREDITS BE TAKEN AGAINST INDIVIDUAL INCOME TAX AND CORPORATE INCOME TAX LIABILITIES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 15-30-2303, 15-30-2357, 15-30-2618, AND 15-31-511, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES.