1   SENATE BILL NO. 321

2   INTRODUCED BY J. KASSMIER, S. NOVAK, L. SCHUBERT, B. EDWARDS, P. STRAND, E. ALBUS, J.

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4   HARVEY, G. LAMMERS, L. SMITH, M. YAKAWICH, B. BARKER, P. FLOWERS, T. FRANCE, D. HAWK, G.

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6

7   A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING TAX CREDITS FOR CHILDREN AND CHILD CARE;

8   PROVIDING FOR A CHILD TAX CREDIT; PROVIDING FOR AN INCOME TAX CREDIT FOR CHILD-CARE

9   WORKERS; PROVIDING FOR AN EMPLOYER TAX CREDIT FOR DEPENDENT CARE ASSISTANCE;

10   PROVIDING THAT THE CREDITS ARE ADJUSTED FOR INFLATION; PROVIDING DEFINITIONS;

11   PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-30-2303, MCA; AND PROVIDING AN

12   APPLICABILITY DATE."

13

14   WHEREAS, nearly 60% of Montana's counties are classified as child-care deserts; and

15   WHEREAS, Montana's total child care capacity meets only 44% of the estimated demand, and infant

16   capacity meets only 34% of the estimated demand; and

17   WHEREAS, the average cost of child care for children under 5 years of age in Montana is

18   approximately $20,000 a year; and

19   WHEREAS, Montana's child care crisis is preventing thousands of Montanans from entering or

20   returning to the workforce.

21

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

23

24   NEW SECTION. **Section 1.   Child tax credit.** (1) Except as provided in subsection (3), a resident

25   taxpayer who is permitted a child tax credit under section 24 of the Internal Revenue Code, 26 U.S.C. 24, is

26   allowed a credit against the taxes imposed by this chapter for each qualifying child of the taxpayer.

27   (2)   Subject to subsection (5), the amount of the credit is ~~$1,200 $600~~ $1,200 for each qualifying

28   child.

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1   (3)   To claim the credit, a taxpayer must have:

2   (a)   proof of earned income; AND

3   (b)   investment of income of less than $10,300; and

4   (c)(B)   a valid social security number for each child claimed.

5   (4)   The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the

6   taxpayer's tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of

7   the credit. The credit may be claimed by filing a Montana income tax return.

8   (5)   The credit in subsection (2) is reduced at a rate of $50 for each $1,000 of the taxpayer's federal

9   adjusted gross income in excess of:

10   (a) $40,000 for a single or head of household taxpayer OR A MARRIED INDIVIDUAL WHO DOES NOT

11   MAKE A JOINT RETURN; and

12   (b) $80,000 for a married taxpayer filing jointly OR A SURVIVING SPOUSE.

13   (6)   The department shall annually adjust the credit amount in subsection (2) and the adjusted

14   gross income amounts in subsections (5)(a) and (5)(b) by the inflation factor for the following tax year and

15   round to the nearest $100.

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

17   (a)   "Earned income" means earned income as defined in section 32 of the Internal Revenue Code,

18   26 U.S.C. 32.

19   (b)   "Inflation factor" means a number determined for each tax year by dividing the consumer price

20   index for June of the previous tax year by the consumer price index for June 2025.

21   (c)   "Investment income" means "disqualified income" as defined in section 32 of the Internal

22   Revenue Code, 26 U.S.C. 32.

23   (d) (C)   "Qualifying child" means a child of the taxpayer who is 5 2 years of age or younger as of the

24   close of the calendar year in which the taxpayer's tax year begins.

25

26   NEW SECTION. **Section 2.   Credit for child-care workers -- rulemaking.** (1) A resident taxpayer is

27   allowed a credit against the tax imposed by this chapter for employment as a child-care worker.

28   (2)   The amount of the credit is equal to $1,600 $1,000.

1   (3)   To be eligible for the credit under this section, a child-care worker must have been employed

2   for at least 6 months of the tax year and worked a minimum of 20 hours a week.

3   (4)   The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the

4   taxpayer's liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of the

5   credit. The credit may be claimed by filing a Montana income tax return.

6   (5)   The department may adopt rules to administer this credit.

7   (6)   The department shall annually adjust the credit provided for in this section by the inflation factor

8   for the following tax year and round to the nearest $100.

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

10   (a)   "Child-care worker" means a person listed in the department of public health and human

11   services' child care ~~under the big sky system~~ LICENSING DATA SYSTEM, A TRIBAL CHILD CARE DEVELOPMENT FUND

12   ADMINISTERED PROGRAM, OR A HEAD START OR EARLY HEAD START PROGRAM who:

13   (i)   owns or is employed in a licensed, TRIBALLY LICENSED, or registered day-care center, day-care

14   facility, family day-care home, or group day-care home as those terms are defined in 52-2-703; ~~or~~

15   (II)   OWNS OR IS EMPLOYED BY A HEAD START OR EARLY START PROGRAM; OR

16   ~~(ii)~~(III)   works as an early childhood teacher, early childhood assistant, school-age teacher, or director

17   or owner of a center or facility provided for in subsection (7)(a)(i) OR (7)(A)(II).

18   (b)   "Inflation factor" means a number determined for each tax year by dividing the consumer price

19   index for June of the previous tax year by the consumer price index for June 2025.

20

21   NEW SECTION. **Section 3.   Business-supported dependent care credit.** (1) There is a credit

22   against the taxes otherwise due under Title 15, chapter 31, and this chapter for an employer for amounts paid

23   or incurred during the tax year by the employer for dependent care assistance actually provided to or on behalf

24   of an employee.

25   (2)   (a) The amount of the credit allowed under subsection (1) is equal to the amount paid or

26   incurred by the employer during the tax year, but the credit may not exceed ~~$5,000~~ $2,500 of dependent care

27   assistance actually provided to or on behalf of the employee.

28   (b)   In the case of an onsite facility, the amount on which the credit allowed under subsection (1) is

1   based, with respect to a dependent, must be based on utilization and the value of the services provided.

2   (3)   An amount paid or incurred by an employer to provide dependent care assistance to or on

3   behalf of an employee does not qualify for the credit allowed under subsection (1):

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

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

6   (4)   If the credit allowed under subsection (1) is claimed, the amount of a deduction allowed or

7   allowable under this chapter for the amount that qualifies for the credit or on which the credit is based must be

8   reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under this section

9   must be made at the time of filing the tax return.

10   (5)   The amount on which the credit allowed under subsection (1) is based may not be included in

11   the gross income of the employee to whom the dependent care assistance is provided. However, the amount

12   excluded from the income of an employee under this section may not exceed the limitations provided in section

13   129(b) of the Internal Revenue Code, 26 U.S.C. 129(b). For the purposes of Title 15, chapter 30, part 25, with

14   respect to an employee to whom dependent care assistance is provided, "wages" does not include an amount

15   excluded under this subsection.

16   (6)   The credit allowed by this section may be refunded if the taxpayer has a tax liability less than

17   the amount of the credit.

18   (7)   If the taxpayer is an S. corporation, as defined in section 1361 of the Internal Revenue Code,

19   26 U.S.C. 1361, OR A PARTNERSHIP and the taxpayer elects to take tax credit relief, the election may be made on

20   behalf of the corporation's shareholders OR THE PARTNERS. A shareholder's OR PARTNER'S credit must be

21   computed using the shareholder's pro rata share of the corporation's costs that qualify for the credit. In all other

22   respects, the effect of the tax credit applies to the corporation OR PARTNERSHIP as otherwise provided by law.

23   (8)   The department shall annually adjust the credit provided for in this section by the inflation factor

24   for the following tax year and round to the nearest $100.

25   (9)   For the purposes of the credit allowed under subsection (1), the definitions and special rules

26   contained in section 129(e) of the Internal Revenue Code, 26 U.S.C. 129(e), apply to the extent applicable.

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

28   (a)   "Employer" means an employer carrying on a business, trade, occupation, or profession in this

1   state.

2   (b)   "Inflation factor" means a number determined for each tax year by dividing the consumer price

3   index for June of the previous tax year by the consumer price index for June 2025.

4

5   NEW SECTION. **Section 4.   Business-supported dependent care credit.** There is a credit against

6   the taxes otherwise due under this chapter for an employer for amounts paid or incurred during the tax year by

7   the employer for dependent care assistance actually provided to or on behalf of an employee as provided in

8   [section 3].

9

10   **Section 5.** Section 15-30-2303, MCA, is amended to read:

11   "**15-30-2303.   Tax credits subject to review by interim committee.** (1) The following tax credits

12   must be reviewed during the biennium commencing July 1, 2021, and during each biennium commencing 8

13   years thereafter:

14   (a)   the credit for donations to innovative educational programs provided for in 15-30-2334, 15-30-

15   3110, and 15-31-158;

16   (b)   the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-

17   30-3111, and 15-31-159; and AND

18   (c)   the adoption tax credit provided for in 15-30-2321; and

19   (d)   the child tax credit provided for in [section 1];

20   (e)   the credit for child-care workers provided for in [section 2]; and

21   (f)   the business-supported dependent care credit provided for in [sections 3 and 4].

22   (2)   The following tax credits must be reviewed during the biennium commencing July 1, 2023, and

23   during each biennium commencing 8 years thereafter:

24   (a)   the credit for infrastructure use fees provided for in 17-6-316;

25   (b)   the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-

26   2329, 15-31-161, and 15-31-162;

27   (c)   the credit for property to recycle or manufacture using recycled material provided for in Title 15,

28   chapter 32, part 6; and

1   (d)   the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151.

2   (3)   The following tax credits must be reviewed during the biennium commencing July 1, 2025, and

3   during each biennium commencing 8 years thereafter:

4   (a)   the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-

5   2341;

6   (b)   the credit for unlocking state lands provided for in 15-30-2380;

7   (c)   the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175; and

8   (d)   the credit for trades education and training provided for in 15-30-2359 and 15-31-174.

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

10   during each biennium commencing 8 years thereafter:

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

12   and 15-31-173;

13   (b)   the earned income tax credit provided for in 15-30-2318;

14   (c)   the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009;

15   and

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

17   (E)   THE CHILD TAX CREDIT PROVIDED FOR IN [SECTION 1];

18   (F)   THE CREDIT FOR CHILD-CARE WORKERS PROVIDED FOR IN [SECTION 2]; AND

19   (G)   THE BUSINESS-SUPPORTED DEPENDENT CARE CREDIT PROVIDED FOR IN [SECTIONS 3 AND 4].

20   (5)   The revenue interim committee shall review the tax credits scheduled for review and make

21   recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about

22   whether to eliminate or revise the credits. The committee shall also review any tax credit with an expiration date

23   or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or

24   terminate.

25   (6)   The revenue interim committee shall review the credits using the following criteria:

26   (a)   whether the credit changes taxpayer decisions, including whether the credit rewards decisions

27   that may have been made regardless of the existence of the tax credit;

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

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

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

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

4   elimination outweigh adverse impacts; and

5   (f)   the extent to which benefits of the credit affect the larger economy. (Subsection (3)(c)

6   terminates December 31, 2028--sec. 4, Ch. 391, L. 2023; subsection (3)(d) terminates December 31, 2028--

7   sec. 2, Ch. 576, L. 2023; subsection (1)(c) terminates December 31, 2031--sec. 6, Ch. 493, L. 2023.)"

8

9   NEW SECTION. **Section 6.   Codification instruction.** (1) [Sections 1 through 3] are intended to be

10   codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections

11   1 through 3].

12   (2)   [Section 4] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the

13   provisions of Title 15, chapter 31, part 1, apply to [section 4].

14

15   NEW SECTION. **Section 7.   Applicability.** [This act] applies to income tax years beginning after

16   December 31, 2025.

17   - END -