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**DENNY**

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House BILL NO. 599

*M. Jantz*  
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*Al. St. Moor*

INTRODUCED BY

*Baichus*  
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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FIRST-TIME HOME BUYER SAVINGS ACCOUNTS, PROVIDING DEFINITIONS, PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION OF THE ACCOUNTS; ALLOWING ACCOUNT HOLDERS TO ADMINISTER THEIR OWN ACCOUNTS; LIMITING THE PERIOD IN WHICH CONTRIBUTIONS MAY BE MADE TO THE ACCOUNT; PROVIDING FOR AN EXCLUSION FROM ADJUSTED GROSS INCOME OF PRINCIPAL AND INCOME CONTAINED WITHIN AN ACCOUNT AND AMOUNTS WITHDRAWN FOR ELIGIBLE COSTS FOR THE FIRST-TIME PURCHASE OF A SINGLE-FAMILY RESIDENCE; PROVIDING FOR WITHDRAWALS FROM AN ACCOUNT FOR PURPOSES OTHER THAN ELIGIBLE COSTS; REQUIRING THAT PRINCIPAL AND INCOME IN THE ACCOUNT MUST BE USED FOR THE PURCHASE OF A SINGLE-FAMILY RESIDENCE BY A FIRST-TIME HOME BUYER WITHIN A SPECIFIED PERIOD; TAXING AMOUNTS REMAINING IN THE ACCOUNT AS ORDINARY INCOME; AMENDING SECTION 15-30-111, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 7] may be cited as the "Montana First-Time Home Buyer Savings Account Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 7], unless the context requires otherwise, the following definitions apply:

- (1) "Account administrator" means:
  - (a) a state or federally chartered bank, savings and loan association, credit union, or trust company;
  - (b) a certified public accountant or a licensed public accountant licensed to practice in this state pursuant to Title 37, chapter 50; or
  - (c) the account holder.
- (2) "Account holder" means an individual who is a resident of this state and who establishes, individually or jointly, a first-time home buyer savings account. The account holder must also be a first-time home buyer.

1 (3) "Eligible costs" means the down payment and allowable closing costs for the purchase of a  
2 single-family residence by a first-time home buyer.

3 (4) (a) "First-time home buyer" means an individual who has not owned or purchased under  
4 contract for deed a single-family residence, individually or jointly, within 3 years immediately preceding the  
5 establishment of a savings account under the provisions of [sections 1 through 7].

6 (b) A first-time home buyer also includes:

7 (i) a displaced homemaker who, while a homemaker, owned a home with the homemaker's spouse;

8 and

9 (ii) a single parent who owned a home with a spouse.

10 (5) "First-time home buyer savings account" or "account" means an account established with an  
11 account administrator in this state pursuant to [section 3].

12 (6) "Single-family residence" means an owner-occupied residence, including a trailer or mobile  
13 home, that is an improvement to real property or a condominium unit that is owned by or that has been  
14 purchased under contract for deed by a person, individually or jointly.

15

16 **NEW SECTION. Section 3. Establishment of account.** A first-time home buyer who is a resident  
17 of this state may establish a first-time home buyer savings account for the first-time home buyer, either  
18 individually or jointly.

19

20 **NEW SECTION. Section 4. Tax exemption -- conditions.** (1) Except as provided in this section, the  
21 amount of principal provided for in subsection (2) contributed annually by an account holder to an account  
22 and all interest or other income on the principal may be excluded from the adjusted gross income of the  
23 account holder and is exempt from taxation, in accordance with 15-30-111(2)(k), as long as the principal  
24 and interest or other income is contained within the account or withdrawn only for eligible costs for the  
25 purchase of a single-family residence by a first-time home buyer. Any part of the principal or income, or  
26 both, withdrawn from an account may not be excluded under subsection (2) and this subsection if the  
27 amount is withdrawn from the account and used for a purpose other than for eligible costs for the purchase  
28 of a single-family residence.

29 (2) (a) An account holder may exclude as an annual contribution in 1 year up to \$3,000. There is  
30 no limitation on the amount of principal and interest or other income on the principal that may be retained

1 tax-free within an account.

2 (b) An account holder may not contribute to the first-time home buyer savings account for a period  
3 exceeding 10 years.

4 (3) An account holder may not deduct pursuant to 15-30-121 or exclude pursuant to 15-30-111  
5 an amount representing a loss in the value of an investment contained in an account.

6 (4) Each year, an account holder may deposit into an account more than the amount excluded  
7 pursuant to subsection (2) if the exemption claimed by the account holder in the year does not exceed  
8 \$3,000. An account holder who deposits more than \$3,000 into an account in a year may exclude from  
9 the account holder's adjusted gross income, in accordance with 15-30-111(2)(k), in a subsequent year any  
10 part of \$3,000 per year not previously excluded.

11 (5) The transfer of money by a person other than the account holder to the account of an account  
12 holder does not subject the account holder to tax liability under this section. Amounts contained within the  
13 account of the receiving account holder are subject to the requirements and limitations provided in this  
14 section. The person other than the account holder who transfers money to the account is not entitled to  
15 the tax exemption under this section.

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

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

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

27 (9) Within 30 days of being furnished proof of the death of the account holder, the account  
28 administrator shall distribute the principal and accumulated interest or other income in the account to the  
29 estate of the account holder."

30

1           **NEW SECTION. Section 5. Withdrawal of funds from account for purposes other than eligible**  
2 **costs for first-time home purchase.** (1) An account holder may withdraw money from the first-time home  
3 buyer's savings account for any purpose other than eligible costs for the first-time purchase of a  
4 single-family residence only on the last business day of the account administrator's business year. Money  
5 withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the account  
6 holder.

7           (2) If the account holder withdraws money from the account other than for eligible costs for the  
8 purchase of a single-family residence or other than on the last business day of the account administrator's  
9 business year, the account administrator shall withhold from the amount of the withdrawal and, on behalf  
10 of the account holder, pay as a penalty to the department an amount equal to 10% of the amount of the  
11 withdrawal. Payments made to the department pursuant to this section must be deposited in the general  
12 fund. Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of  
13 the account holder.

14           (3) For the purposes of this section, "last business day of the account administrator's business  
15 year", as applied to an account administrator who is also the account holder, means the last weekday in  
16 December.

17  
18           **NEW SECTION. Section 6. Administration of account.** (1) An account administrator shall  
19 administer the first-time home buyer savings account from which the payment of eligible costs for the  
20 purchase of a single-family residence is made and has a fiduciary duty to the person for whose benefit the  
21 account is administered.

22           (2) Within 30 days after an account administrator begins to administer an account, the account  
23 administrator shall notify in writing each account holder on whose behalf the account administrator  
24 administers an account of the date of the last business day of the account administrator's business year.

25           (3) An account administrator may use funds held in a first-time home buyer savings account only  
26 for the purpose of paying the eligible costs of the account holder or paying the expenses of administering  
27 the account.

28           (4) The account holder may submit documentation of eligible costs paid by the account holder in  
29 the tax year to the account administrator, and the account administrator shall reimburse the account holder  
30 from the account holder's account for eligible costs for the first-time purchase of a single-family residence.

1 (5) In the case of an account administrator who is also the account holder:

2 (a) notice by the account administrator to the account holder pursuant to subsection (2) is not  
3 required;

4 (b) the account administrator may not use funds held in an account to pay expenses of  
5 administering the account;

6 (c) documentation of the segregation of funds in separate accounts and documentation of eligible  
7 costs for the purchase of a single-family residence must be maintained but is not required to be submitted  
8 to the account administrator; and

9 (d) the account administrator shall file reports as reasonably required by the department.  
10

11 **NEW SECTION. Section 7. False claims prohibited.** A person who knowingly prepares or causes  
12 to be prepared a false claim, receipt, statement, or billing to justify the withdrawal of money from an  
13 account is subject to the provisions of 15-61-205.  
14

15 **Section 8.** Section 15-30-111, MCA, is amended to read:

16 **"15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal income  
17 tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954, as that section  
18 may be labeled or amended, and in addition includes the following:

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

22 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,  
23 as that section may be amended or renumbered, that are attributable to the interest referred to in  
24 subsection (1)(a)(i);

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

27 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue  
28 Code of 1954 that has been reduced by any federal taxes paid by the subchapter S. corporation on the  
29 income;

30 (d) depreciation or amortization taken on a title plant as defined in 33-25-105(15); and

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

3 (2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or  
4 amended, adjusted gross income does not include the following, which are exempt from taxation under this  
5 chapter:

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

9 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,  
10 as that section may be amended or renumbered, that are attributable to the interest referred to in  
11 subsection (2)(a)(i);

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

14 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income  
15 received as defined in 15-30-101;

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

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

20 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity  
21 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided  
22 in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of  
23 \$30,000 as shown on their joint return;

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

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

26 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by  
27 section 3401 of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983,  
28 received by persons for services rendered by them to patrons of premises licensed to provide food,  
29 beverage, or lodging;

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

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

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

5 (j) principal and income in a medical care savings account established in accordance with  
6 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the  
7 taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the  
8 taxpayer;

9 (k) principal and income in a first-time home buyer savings account established in accordance with  
10 [section 3] or withdrawn from an account for eligible costs, as provided in [section 4(7)], for the first-time  
11 purchase of a single-family residence; and

12 ~~((l))~~ the recovery during the tax year of any amount deducted in any prior tax year to the extent  
13 that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted.

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

18 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's  
19 business deductions by an amount for wages and salaries for which a federal tax credit was elected under  
20 section 44B of the Internal Revenue Code of 1954, as that section may be labeled or amended, is allowed  
21 to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must  
22 be made in the year the wages and salaries were used to compute the credit. In the case of a partnership  
23 or small business corporation, the deduction must be made to determine the amount of income or loss of  
24 the partnership or small business corporation.

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

30 (6) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of

1 the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross  
2 income up to \$100 per week received as wages or payments in lieu of wages for a period during which the  
3 employee is absent from work due to the disability. If the adjusted gross income before this exclusion and  
4 before application of the two-earner married couple deduction exceeds \$15,000, the excess reduces the  
5 exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's  
6 eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the  
7 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined  
8 adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable  
9 to engage in any substantial gainful activity by reason of any medically determined physical or mental  
10 impairment lasting or expected to last at least 12 months. (Subsection (2)(f) terminates on occurrence of  
11 contingency--sec. 3, Ch. 634, L. 1983.)"

12

13 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 7] are intended to be  
14 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 7].

15

16 **NEW SECTION. Section 10. Effective date.** [This act] is effective January 1, 1998.

17

-END-



STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0599, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for first-time home buyer savings accounts; providing definitions; providing for the establishment and administration of the accounts; allowing account holders to administer their own accounts; limiting the period in which contributions may be made to the account; providing for an exclusion from adjusted gross income of principal and income contained within an account and amounts withdrawn for eligible costs for the first-time purchase of a single-family residence; providing for withdrawals from an account for purposes other than eligible costs; requiring that principal and income in the account must be used for the purchase of a single-family residence by a first-time home buyer within a specified period; taxing amounts remaining in the account as ordinary income; and providing a delayed effective date.

ASSUMPTIONS:

1. The effective date of this proposal is January 1, 1998. The first fiscal year affected will be fiscal year 1999 (tax year 1998).
2. Up to \$3,000 of contributions to accounts can be deducted each year. Interest earnings are tax exempt.
3. Account holders are allowed to administer their own accounts.
4. A very similar Canadian savings account program for first-time home buyers, which existed between 1974 and 1984, indicates 7% of renter households would save an average of 9% of their gross income. The average length of participation in the Canadian program was 3 years.
5. There will be approximately 112,900 renter households in Montana in 1998. The projected median household income in Montana will be \$30,800.
6. Based on the results of the Canadian savings program, 7,903 renter households in Montana would participate and each household would save \$2,772 each year. Assuming the average marginal tax rate for savers is 6%, the revenue impact would be \$1,314,427 ( $7,903 \times \$2,772 \times 0.06$ ).
7. Home ownership rates are higher in the United States than in Canada. This implies the revenue impact calculated in assumption #6 could be understated. Allowing account holders to administer their own accounts also may increase participation. To compensate for any possible understatement of the revenue impact in assumption #6, it is assumed that 10% of renter households in Montana will participate and save \$3,000 per year (the maximum deductible contribution, or approximately 9.7% of projected median household income). This results in a revenue impact of \$2,032,200 ( $11,290 \text{ households} \times \$3,000 \times 0.06$ ).
8. Assuming it will take taxpayers some time to become fully informed about the availability of the tax-free savings accounts, the revenue impact in the first year of availability is estimated to be 75% of the impact calculated in assumption 7, or \$1,524,150.
9. The administrative expenses for this proposal include adding a line to the income tax form, computer programming and storage costs for a total of \$14,672.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>		
Income Tax	\$0	\$14,672
<u>Revenues:</u>		
Income Tax	\$0	(\$1,524,150)
<u>Net Impact:</u>		
Income Tax (General Fund)	\$0	(\$1,538,822)

*Dave Lewis* 3-11-97  
 DAVE LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

PAUL BANKHEAD, PRIMARY SPONSOR DATE

Fiscal Note for HB0599, as introduced

**HB 599**

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0599, as amended

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for first-time home buyer savings accounts; providing definitions; providing for the establishment and administration of the accounts; allowing account holders to administer their own accounts; limiting the period in which contributions may be made to the account; providing for an exclusion from adjusted gross income of principal and income contained within an account and amounts withdrawn for eligible costs for the first-time purchase of a single-family residence; providing for withdrawals from an account for purposes other than eligible costs; requiring that principal and income in the account must be used for the purchase of a single-family residence by a first-time home buyer within a specified period; taxing amounts remaining in the account as ordinary income; and providing a delayed effective date.

ASSUMPTIONS:

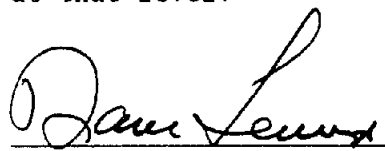
1. The effective date of this proposal is January 1, 1998. The first fiscal year affected will be fiscal year 1999 (tax year 1998).
2. Up to \$3,000 of contributions to accounts can be deducted each year. Interest earnings are tax exempt, with account holders allowed to administer their own accounts.
3. In 1996, 1,247 households qualified as "first-time" home buyers for programs administered by the Montana Board of Housing. Based on this figure, it is estimated that approximately 1,000 households will participate in the proposed savings account program provided in this bill in the first year (1998). Each succeeding year an additional 1,000 new households will open qualifying savings accounts.
4. Based on the 1990 Census of Housing, the mean household income of renter households in Montana is \$19,000. Participants in the proposed program will save an average of 5% of this income level each year, or will contribute \$950 per year (\$79 per month) on average to qualifying savings accounts.
5. It will take an average of five years for these households to save enough to meet the closing cost requirements to purchase a home.
6. The average marginal income tax rate for these households is 5%.
7. The administrative expenses for this proposal include adding a line to the income tax form, computer programming and storage costs for a total of \$14,672 in FY99.

FISCAL IMPACT:

	<u>FY 98</u>	<u>FY 99</u>
<u>Expenditures:</u>		
Income Tax (Operating Costs)	\$0	\$14,672
<u>Revenues:</u>		
Individual Income Tax	\$0	\$(47,500)
<u>Net Impact:</u>		
Income Tax (General Fund)	\$0	\$(62,172)

LONG-RANGE IMPACT:

The revenue impact of this proposal will increase in succeeding years as new savings account holders are added to existing account holders, until such time as the original account holders begin to purchase homes. This is expected to take about five years. By FY2003, the cost of this program is projected to increase to approximately \$237,500 annually, and remain at that level.

 3-21-97  
 DAVE LEWIS, BUDGET DIRECTOR                      DATE  
 Office of Budget and Program Planning

 3-22-97  
 PAUL BANKHEAD, PRIMARY SPONSOR                      DATE

## 1 HOUSE BILL NO. 599

2 INTRODUCED BY BANKHEAD, DEPRATU, MASOLO, HURDLE, KRENZLER, ORR, SMITH, GRIMES,  
3 HAYNE, KITZENBERG, SCHMIDT, STORY, CRISMORE, MERCER, KNOX, GRINDE, BOHLINGER, OHS,  
4 FELAND, TROPILA, BURNETT, SIMON, ELLIS, BEAUDRY, HIBBARD, GRADY, STOVALL,  
5 BOOKOUT-REINICKE, MCGEE, HARP, MOHL, SPRAGUE, MCNUTT, THOMAS, MESAROS, RYAN,  
6 BAER, AKLESTAD, EMERSON, JENKINS, BENEDICT, DENNY, BERGMAN, WELLS, ARNOTT, MOOD,  
7 ADAMS, TAYLOR, CURTISS, M. HANSON, WALTERS, ROSE, KEATING, MAHLUM, COLE, WAGNER,  
8 MARSHALL, CAREY, STANG, L. TAYLOR, GLASER, TREXLER

9  
10 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FIRST-TIME HOME BUYER SAVINGS  
11 ACCOUNTS; PROVIDING DEFINITIONS; PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION  
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18 USED FOR THE PURCHASE OF A SINGLE-FAMILY RESIDENCE BY A FIRST-TIME HOME BUYER WITHIN  
19 A SPECIFIED PERIOD; TAXING AMOUNTS REMAINING IN THE ACCOUNT AS ORDINARY INCOME;  
20 AMENDING SECTION 15-30-111, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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30 (a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

1 (b) a certified public accountant or a licensed public accountant licensed to practice in this state  
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3 (c) the account holder.

4 (2) "Account holder" means an individual who is a resident of this state and who establishes,  
5 individually or jointly, a first-time home buyer savings account. The account holder must also be a first-time  
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7 (3) "Eligible costs" means the down payment and allowable closing costs for the purchase of a  
8 single-family residence by a first-time home buyer.

9 (4) ~~(a)~~ "First-time home buyer" means an individual who has ~~not~~ **NEVER** owned or purchased under  
10 contract for deed, EITHER INDIVIDUALLY OR JOINTLY, a single-family residence, ~~individually or jointly,~~  
11 ~~within 3 years immediately preceding the establishment of a savings account under the provisions of~~  
12 ~~[sections 1 through 7].~~

13 ~~(b) A first-time home buyer also includes:~~

14 ~~(i) a displaced homemaker who, while a homemaker, owned a home with the homemaker's spouse;~~

15 ~~and~~

16 ~~(ii) a single parent who owned a home with a spouse.~~

17 (5) "First-time home buyer savings account" or "account" means an account established with an  
18 account administrator in this state pursuant to [section 3].

19 (6) "Single-family residence" means an owner-occupied residence, including a trailer or mobile  
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21 purchased under contract for deed by a person, individually or jointly.

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6 (2) (a) An account holder may exclude as an annual contribution in 1 year up to \$3,000. There is  
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16 the account holder's adjusted gross income, in accordance with 15-30-111(2)(k), in a subsequent year any  
17 part of \$3,000 per year not previously excluded.

18 (5) The transfer of money by a person other than the account holder to the account of an account  
19 holder does not subject the account holder to tax liability under this section. Amounts contained within the  
20 account of the receiving account holder are subject to the requirements and limitations provided in this  
21 section. The person other than the account holder who transfers money to the account is not entitled to  
22 the tax exemption under this section.

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

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

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

4 (9) Within 30 days of being furnished proof of the death of the account holder, the account  
5 administrator shall distribute the principal and accumulated interest or other income in the account to the  
6 estate of the account holder."

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8 **NEW SECTION. Section 5. Withdrawal of funds from account for purposes other than eligible**  
9 **costs for first-time home purchase.** (1) An account holder may withdraw money from the first-time home  
10 buyer's savings account for any purpose other than eligible costs for the first-time purchase of a  
11 single-family residence only on the last business day of the account administrator's business year. Money  
12 withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the account  
13 holder.

14 (2) If the account holder withdraws money from the account other than for eligible costs for the  
15 purchase of a single-family residence or other than on the last business day of the account administrator's  
16 business year, the account administrator shall withhold from the amount of the withdrawal and, on behalf  
17 of the account holder, pay as a penalty to the department an amount equal to 10% of the amount of the  
18 withdrawal. Payments made to the department pursuant to this section must be deposited in the general  
19 fund. Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of  
20 the account holder.

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

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25 **NEW SECTION. Section 6. Administration of account.** (1) An account administrator shall  
26 administer the first-time home buyer savings account from which the payment of eligible costs for the  
27 purchase of a single-family residence is made and has a fiduciary duty to the person for whose benefit the  
28 account is administered. **EXCEPT FOR REPORTING AND REMITTING OF PENALTIES TO THE DEPARTMENT,**  
29 **A FINANCIAL INSTITUTION SHALL ADMINISTER A FIRST-TIME HOME BUYER'S SAVINGS ACCOUNT AS**  
30 **A REGULAR DEPOSIT. A FINANCIAL INSTITUTION IS NOT RESPONSIBLE FOR THE USE OR APPLICATIONS**

1 OF FUNDS.

2 (2) Within 30 days after an account administrator begins to administer an account, the account  
3 administrator shall notify in writing each account holder on whose behalf the account administrator  
4 administers an account of the date of the last business day of the account administrator's business year.

5 (3) An account administrator may use funds held in a first-time home buyer savings account only  
6 for the purpose of paying the eligible costs of the account holder or paying the expenses of administering  
7 the account.

8 (4) The account holder may submit documentation of eligible costs paid by the account holder in  
9 the tax year to the account administrator, and the account administrator shall reimburse the account holder  
10 from the account holder's account for eligible costs for the first-time purchase of a single-family residence.

11 THE BURDEN OF PROVING THAT A WITHDRAWAL FROM A FIRST-TIME HOME BUYER'S SAVINGS  
12 ACCOUNT WAS MADE FOR ELIGIBLE COSTS IS UPON THE ACCOUNT HOLDER AND NOT UPON THE  
13 ACCOUNT ADMINISTRATOR.

14 (5) In the case of an account administrator who is also the account holder:

15 (a) notice by the account administrator to the account holder pursuant to subsection (2) is not  
16 required;

17 (b) the account administrator may not use funds held in an account to pay expenses of  
18 administering the account;

19 (c) documentation of the segregation of funds in separate accounts and documentation of eligible  
20 costs for the purchase of a single-family residence must be maintained but is not required to be submitted  
21 to the account administrator; ~~and~~

22 (d) the account administrator shall file reports as reasonably required by the department; AND

23 (E) THE ACCOUNT HOLDER IS REQUIRED TO FORWARD THE 10% PENALTY ON FUNDS  
24 WITHDRAWN FOR OTHER THAN ELIGIBLE COSTS TO THE DEPARTMENT.

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26 NEW SECTION. Section 7. False claims prohibited. A person who knowingly prepares or causes  
27 to be prepared a false claim, receipt, statement, or billing to justify the withdrawal of money from an  
28 account is subject to the provisions of 15-61-205.

29

30 **Section 8.** Section 15-30-111, MCA, is amended to read:

1           **"15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal income  
2 tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954, as that section  
3 may be labeled or amended, and in addition includes the following:

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

7           (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,  
8 as that section may be amended or renumbered, that are attributable to the interest referred to in  
9 subsection (1)(a)(i);

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

12          (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue  
13 Code of 1954 that has been reduced by any federal taxes paid by the subchapter S. corporation on the  
14 income;

15          (d) depreciation or amortization taken on a title plant as defined in 33-25-105(15); and

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

18          (2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or  
19 amended, adjusted gross income does not include the following, which are exempt from taxation under this  
20 chapter:

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

24          (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,  
25 as that section may be amended or renumbered, that are attributable to the interest referred to in  
26 subsection (2)(a)(i);

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

29          (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income  
30 received as defined in 15-30-101;



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

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

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

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

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

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

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

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

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

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

24 (k) principal and income in a first-time home buyer savings account established in accordance with  
25 [section 3] or withdrawn from an account for eligible costs, as provided in [section 4(7)], for the first-time  
26 purchase of a single-family residence; and

27 ~~(k)(l)~~ the recovery during the tax year of any amount deducted in any prior tax year to the extent  
28 that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted.

29 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l)  
30 shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same

1 manner as provided by section 995 of the Internal Revenue Code for all periods for which the DISC election  
2 is effective.

3 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's  
4 business deductions by an amount for wages and salaries for which a federal tax credit was elected under  
5 section 44B of the Internal Revenue Code of 1954, as that section may be labeled or amended, is allowed  
6 to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must  
7 be made in the year the wages and salaries were used to compute the credit. In the case of a partnership  
8 or small business corporation, the deduction must be made to determine the amount of income or loss of  
9 the partnership or small business corporation.

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

15 (6) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of  
16 the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross  
17 income up to \$100 per week received as wages or payments in lieu of wages for a period during which the  
18 employee is absent from work due to the disability. If the adjusted gross income before this exclusion and  
19 before application of the two-earner married couple deduction exceeds \$15,000, the excess reduces the  
20 exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's  
21 eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the  
22 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined  
23 adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable  
24 to engage in any substantial gainful activity by reason of any medically determined physical or mental  
25 impairment lasting or expected to last at least 12 months. (Subsection (2)(f) terminates on occurrence of  
26 contingency--sec. 3, Ch. 634, L. 1983.)"

27

28 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 7] are intended to be  
29 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 7].

30



## 1 HOUSE BILL NO. 599

2 INTRODUCED BY BANKHEAD, DEPRATU, MASOLO, HURDLE, KRENZLER, ORR, SMITH, GRIMES,  
3 HAYNE, KITZENBERG, SCHMIDT, STORY, CRISMORE, MERCER, KNOX, GRINDE, BOHLINGER, OHS,  
4 FELAND, TROPILA, BURNETT, SIMON, ELLIS, BEAUDRY, HIBBARD, GRADY, STOVALL,  
5 BOOKOUT-REINICKE, MCGEE, HARP, MOHL, SPRAGUE, MCNUTT, THOMAS, MESAROS, RYAN,  
6 BAER, AKLESTAD, EMERSON, JENKINS, BENEDICT, DENNY, BERGMAN, WELLS, ARNOTT, MOOD,  
7 ADAMS, TAYLOR, CURTISS, M. HANSON, WALTERS, ROSE, KEATING, MAHLUM, COLE, WAGNER,  
8 MARSHALL, CAREY, STANG, L. TAYLOR, GLASER, TREXLER

9  
10 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FIRST-TIME HOME BUYER SAVINGS  
11 ACCOUNTS; PROVIDING DEFINITIONS; PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION  
12 OF THE ACCOUNTS; ALLOWING ACCOUNT HOLDERS TO ADMINISTER THEIR OWN ACCOUNTS;  
13 LIMITING THE PERIOD IN WHICH CONTRIBUTIONS MAY BE MADE TO THE ACCOUNT; PROVIDING FOR  
14 AN EXCLUSION FROM ADJUSTED GROSS INCOME OF PRINCIPAL AND INCOME CONTAINED WITHIN  
15 AN ACCOUNT AND AMOUNTS WITHDRAWN FOR ELIGIBLE COSTS FOR THE FIRST-TIME PURCHASE OF  
16 A SINGLE-FAMILY RESIDENCE; PROVIDING FOR WITHDRAWALS FROM AN ACCOUNT FOR PURPOSES  
17 OTHER THAN ELIGIBLE COSTS; REQUIRING THAT PRINCIPAL AND INCOME IN THE ACCOUNT MUST BE  
18 USED FOR THE PURCHASE OF A SINGLE-FAMILY RESIDENCE BY A FIRST-TIME HOME BUYER WITHIN  
19 A SPECIFIED PERIOD; TAXING AMOUNTS REMAINING IN THE ACCOUNT AS ORDINARY INCOME;  
20 AMENDING SECTION 15-30-111, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE  
REPRINTED. PLEASE REFER TO SECOND READING COPY  
(YELLOW) FOR COMPLETE TEXT.**

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HOME BUYER WITHIN A SPECIFIED PERIOD; TAXING AMOUNTS REMAINING IN THE ACCOUNT AS  
ORDINARY INCOME; AMENDING SECTION 15-30-111, MCA; AND PROVIDING A DELAYED EFFECTIVE  
DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Montana  
First-Time Home Buyer Savings Account Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 7], unless the context  
requires otherwise, the following definitions apply:

(1) "Account administrator" means:



1 (a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

2 (b) a certified public accountant or a licensed public accountant licensed to practice in this state  
3 pursuant to Title 37, chapter 50; or

4 (c) the account holder.

5 (2) "Account holder" means an individual who is a resident of this state and who establishes,  
6 individually or jointly, a first-time home buyer savings account. The account holder must also be a first-time  
7 home buyer. A MARRIED TAXPAYER FILING SEPARATELY MAY BE AN ACCOUNT HOLDER IF THE  
8 ACCOUNT IS ESTABLISHED SEPARATELY FROM THE TAXPAYER'S SPOUSE. MARRIED TAXPAYERS  
9 FILING JOINTLY ARE CONSIDERED AS THE ACCOUNT HOLDER.

10 (3) "Eligible costs" means the down payment and allowable closing costs for the purchase of a  
11 single-family residence IN MONTANA by a first-time home buyer.

12 (4) ~~(a)~~ "First-time home buyer" means an individual who has ~~not~~ NEVER owned or purchased under  
13 contract for deed, EITHER INDIVIDUALLY OR JOINTLY, a single-family residence IN MONTANA OR  
14 OUT-OF-STATE, individually or jointly, within 3 years immediately preceding the establishment of a savings  
15 account under the provisions of ~~[sections 1 through 7]~~.

16 ~~(b) A first-time home buyer also includes:~~

17 ~~(i) a displaced homemaker who, while a homemaker, owned a home with the homemaker's spouse;~~  
18 and

19 ~~(ii) a single parent who owned a home with a spouse.~~

20 (5) "First-time home buyer savings account" or "account" means an account established with an  
21 account administrator in this state pursuant to [section 3].

22 (6) "Single-family residence" means an owner-occupied residence IN MONTANA, including a  
23 MANUFACTURED HOME, trailer, or mobile home, that is an improvement to real property or a condominium  
24 unit that is owned by or that has been purchased under contract for deed by a person, individually or  
25 jointly.

26

27 NEW SECTION. Section 3. Establishment of account. A first-time home buyer who is a resident  
28 of this state may establish a first-time home buyer savings account for the first-time home buyer, either  
29 individually or jointly.

30

1           **NEW SECTION. Section 4. Tax exemption -- conditions.** (1) Except as provided in this section, the  
2 amount of principal provided for in subsection (2) contributed annually by an account holder to an account  
3 and all interest or other income on the principal may be excluded from the adjusted gross income of the  
4 account holder and is exempt from taxation, in accordance with 15-30-111(2)(k), as long as the principal  
5 and interest or other income is contained within the account or withdrawn only for eligible costs for the  
6 purchase of a single-family residence by a first-time home buyer. Any part of the principal or income, or  
7 both, withdrawn from an account may not be excluded under subsection (2) and this subsection if the  
8 amount is withdrawn from the account and used for a purpose other than for eligible costs for the purchase  
9 of a single-family residence.

10           (2) (a) An account holder WHO FILES SINGLY, HEAD OF HOUSEHOLD, OR MARRIED FILING  
11 SEPARATELY may exclude as an annual contribution in 1 year up to \$3,000.

12           (B) AN ACCOUNT HOLDER WHO FILES JOINTLY MAY EXCLUDE AS ANNUAL CONTRIBUTION  
13 IN 1 YEAR UP TO \$6,000.

14           (C) There is no limitation on the amount of principal and interest or other income on the principal  
15 that may be retained tax-free within an account.

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

18           (3) An account holder may not deduct pursuant to 15-30-121 or exclude pursuant to 15-30-111  
19 an amount representing a loss in the value of an investment contained in an account.

20           (4) Each year, an account holder may deposit into an account more than the amount excluded  
21 pursuant to subsection (2) if the exemption claimed by the account holder in the year does not exceed  
22 ~~\$3,000~~ THE AMOUNT SPECIFIED IN SUBSECTION (2)(A) OR (2)(B). An account holder who deposits more  
23 than ~~\$3,000~~ THE AMOUNT SPECIFIED IN SUBSECTION (2)(A) OR (2)(B) into an account in a year may  
24 exclude from the account holder's adjusted gross income, in accordance with 15-30-111(2)(k), in a  
25 subsequent year any part of ~~\$3,000~~ THE AMOUNT SPECIFIED IN SUBSECTION (2)(A) OR (2)(B) per year  
26 not previously excluded.

27           (5) The transfer of money by a person other than the account holder to the account of an account  
28 holder does not subject the account holder to tax liability under this section. Amounts contained within the  
29 account of the receiving account holder are subject to the requirements and limitations provided in this  
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10 (8) The amount of a disbursement of any assets of a first-time home buyer savings account  
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13 (9) Within 30 days of being furnished proof of the death of the account holder, the account  
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15 estate of the account holder."

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21 withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the account  
22 holder.

23 (2) If the account holder withdraws money from the account other than for eligible costs for the  
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25 business year, the account administrator shall withhold from the amount of the withdrawal and, on behalf  
26 of the account holder, pay as a penalty to the department an amount equal to 10% of the amount of the  
27 withdrawal. Payments made to the department pursuant to this section must be deposited in the general  
28 fund. Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of  
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30 (3) For the purposes of this section, "last business day of the account administrator's business



1 year", as applied to an account administrator who is also the account holder, means the last weekday in  
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9 A REGULAR DEPOSIT. A FINANCIAL INSTITUTION IS NOT RESPONSIBLE FOR THE USE OR APPLICATIONS  
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14 (3) An account administrator may use funds held in a first-time home buyer savings account only  
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20 THE BURDEN OF PROVING THAT A WITHDRAWAL FROM A FIRST-TIME HOME BUYER'S SAVINGS  
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22 ACCOUNT ADMINISTRATOR.

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26 (b) the account administrator may not use funds held in an account to pay expenses of  
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28 (c) documentation of the segregation of funds in separate accounts and documentation of eligible  
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10 "**15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal income  
 11 tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954, as that section  
 12 may be labeled or amended, and in addition includes the following:

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

16 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,  
 17 as that section may be amended or renumbered, that are attributable to the interest referred to in  
 18 subsection (1)(a)(i);

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

21 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue  
 22 Code of 1954 that has been reduced by any federal taxes paid by the subchapter S. corporation on the  
 23 income;

24 (d) depreciation or amortization taken on a title plant as defined in 33-25-105(15); and

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

27 (2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or  
 28 amended, adjusted gross income does not include the following, which are exempt from taxation under this  
 29 chapter:

30 (a) (i) all interest income from obligations of the United States government, the state of Montana,

1 county, municipality, district, or other political subdivision of the state and any other interest income that  
2 is exempt from taxation by Montana under federal law;

3 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,  
4 as that section may be amended or renumbered, that are attributable to the interest referred to in  
5 subsection (2)(a)(i);

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

8 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income  
9 received as defined in 15-30-101;

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

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

14 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity  
15 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided  
16 in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of  
17 \$30,000 as shown on their joint return;

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

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

20 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by  
21 section 3401 of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983,  
22 received by persons for services rendered by them to patrons of premises licensed to provide food,  
23 beverage, or lodging;

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

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

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

29 (j) principal and income in a medical care savings account established in accordance with  
30 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the

1 taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the  
2 taxpayer;

3 (k) principal and income in a first-time home buyer savings account established in accordance with  
4 [section 3] or withdrawn from an account for eligible costs, as provided in [section 4(7)], for the first-time  
5 purchase of a single-family residence; and

6 ~~(k)(l)~~ the recovery during the tax year of any amount deducted in any prior tax year to the extent  
7 that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted.

8 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l)  
9 shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same  
10 manner as provided by section 995 of the Internal Revenue Code for all periods for which the DISC election  
11 is effective.

12 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's  
13 business deductions by an amount for wages and salaries for which a federal tax credit was elected under  
14 section 44B of the Internal Revenue Code of 1954, as that section may be labeled or amended, is allowed  
15 to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must  
16 be made in the year the wages and salaries were used to compute the credit. In the case of a partnership  
17 or small business corporation, the deduction must be made to determine the amount of income or loss of  
18 the partnership or small business corporation.

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

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

1 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined  
2 adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable  
3 to engage in any substantial gainful activity by reason of any medically determined physical or mental  
4 impairment lasting or expected to last at least 12 months. (Subsection (2)(f) terminates on occurrence of  
5 contingency--sec. 3, Ch. 634, L. 1983.)"

6

7 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 7] are intended to be  
8 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 7].

9

10 **NEW SECTION. Section 10. Effective date.** [This act] is effective January 1, 1998.

11

-END-

HOUSE BILL NO. 599

INTRODUCED BY BANKHEAD, DEPRATU, MASOLO, HURDLE, KRENZLER, ORR, SMITH, GRIMES,  
 HAYNE, KITZENBERG, SCHMIDT, STORY, CRISMORE, MERCER, KNOX, GRINDE, BOHLINGER, OHS,  
 FELAND, TROPILA, BURNETT, SIMON, ELLIS, BEAUDRY, HIBBARD, GRADY, STOVALL,  
 BOOKOUT-REINICKE, MCGEE, HARP, MOHL, SPRAGUE, MCNUTT, THOMAS, MESAROS, RYAN,  
 BAER, AKLESTAD, EMERSON, JENKINS, BENEDICT, DENNY, BERGMAN, WELLS, ARNOTT, MOOD,  
 ADAMS, M. TAYLOR, CURTISS, M. HANSON, WALTERS, ROSE, KEATING, MAHLUM, COLE,  
 WAGNER, MARSHALL, CAREY, STANG, L. TAYLOR, GLASER, TREXLER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FIRST-TIME HOME BUYER SAVINGS  
 ACCOUNTS; PROVIDING DEFINITIONS; PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION  
 OF THE ACCOUNTS; ALLOWING ACCOUNT HOLDERS TO ADMINISTER THEIR OWN ACCOUNTS;  
 LIMITING THE PERIOD IN WHICH CONTRIBUTIONS MAY BE MADE TO THE ACCOUNT; PROVIDING FOR  
 AN EXCLUSION FROM ADJUSTED GROSS INCOME OF PRINCIPAL AND INCOME CONTAINED WITHIN  
 AN ACCOUNT AND AMOUNTS WITHDRAWN FOR ELIGIBLE COSTS FOR THE FIRST-TIME PURCHASE OF  
 A SINGLE-FAMILY RESIDENCE IN MONTANA; PROVIDING FOR WITHDRAWALS FROM AN ACCOUNT FOR  
 PURPOSES OTHER THAN ELIGIBLE COSTS; REQUIRING THAT PRINCIPAL AND INCOME IN THE ACCOUNT  
 MUST BE USED FOR THE PURCHASE OF A SINGLE-FAMILY RESIDENCE IN MONTANA BY A FIRST-TIME  
 HOME BUYER WITHIN A SPECIFIED PERIOD; TAXING AMOUNTS REMAINING IN THE ACCOUNT AS  
 ORDINARY INCOME; AMENDING SECTION 15-30-111, MCA; AND PROVIDING A DELAYED EFFECTIVE  
 DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Montana  
 First-Time Home Buyer Savings Account Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 7], unless the context  
 requires otherwise, the following definitions apply:

- (1) "Account administrator" means:

1 (a) a state or federally chartered bank, savings and loan association, credit union, or trust company;  
 2 (b) a certified public accountant or a licensed public accountant licensed to practice in this state  
 3 pursuant to Title 37, chapter 50; or

4 (c) the account holder.

5 (2) "Account holder" means an individual who is a resident of this state and who establishes,  
 6 individually or jointly, a first-time home buyer savings account. The account holder must also be a first-time  
 7 home buyer. A MARRIED TAXPAYER FILING SEPARATELY MAY BE AN ACCOUNT HOLDER IF THE  
 8 ACCOUNT IS ESTABLISHED SEPARATELY FROM THE TAXPAYER'S SPOUSE. MARRIED TAXPAYERS  
 9 FILING JOINTLY ARE CONSIDERED AS THE ACCOUNT HOLDER.

10 (3) "Eligible costs" means the down payment and allowable closing costs for the purchase of a  
 11 single-family residence IN MONTANA by a first-time home buyer.

12 (4) ~~(a)~~ "First-time home buyer" means an individual who has ~~not~~ NEVER owned or purchased under  
 13 contract for deed, EITHER INDIVIDUALLY OR JOINTLY, a single-family residence IN MONTANA OR  
 14 OUT-OF-STATE, ~~individually or jointly, within 3 years immediately preceding the establishment of a savings~~  
 15 ~~account under the provisions of [sections 1 through 7].~~

16 ~~(b) A first-time home buyer also includes:~~

17 ~~(i) a displaced homemaker who, while a homemaker, owned a home with the homemaker's spouse;~~  
 18 ~~and~~

19 ~~(ii) a single parent who owned a home with a spouse.~~

20 (5) "First-time home buyer savings account" or "account" means an account established with an  
 21 account administrator in this state pursuant to [section 3].

22 (6) "Single-family residence" means an owner-occupied residence IN MONTANA, including a  
 23 MANUFACTURED HOME, trailer, or mobile home, that is an improvement to real property or a condominium  
 24 unit that is owned by or that has been purchased under contract for deed by a person, individually or  
 25 jointly.

26

27 NEW SECTION. Section 3. Establishment of account. A first-time home buyer who is a resident  
 28 of this state may establish a first-time home buyer savings account for the first-time home buyer, either  
 29 individually or jointly.

30

1           **NEW SECTION. Section 4. Tax exemption -- conditions.** (1) Except as provided in this section, the  
 2 amount of principal provided for in subsection (2) contributed annually by an account holder to an account  
 3 and all interest or other income on the principal may be excluded from the adjusted gross income of the  
 4 account holder and is exempt from taxation, in accordance with 15-30-111(2)(k), as long as the principal  
 5 and interest or other income is contained within the account or withdrawn only for eligible costs for the  
 6 purchase of a single-family residence by a first-time home buyer. Any part of the principal or income, or  
 7 both, withdrawn from an account may not be excluded under subsection (2) and this subsection if the  
 8 amount is withdrawn from the account and used for a purpose other than for eligible costs for the purchase  
 9 of a single-family residence.

10           (2) (a) An account holder WHO FILES SINGLY, HEAD OF HOUSEHOLD, OR MARRIED FILING  
 11 SEPARATELY may exclude as an annual contribution in 1 year up to \$3,000.

12           (B) AN ACCOUNT HOLDER WHO FILES JOINTLY MAY EXCLUDE AS ANNUAL CONTRIBUTION  
 13 IN 1 YEAR UP TO \$6,000.

14           (C) There is no limitation on the amount of principal and interest or other income on the principal  
 15 that may be retained tax-free within an account.

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

18           (3) An account holder may not deduct pursuant to 15-30-121 or exclude pursuant to 15-30-111  
 19 an amount representing a loss in the value of an investment contained in an account.

20           (4) Each year, an account holder may deposit into an account more than the amount excluded  
 21 pursuant to subsection (2) if the exemption claimed by the account holder in the year does not exceed  
 22 ~~\$3,000~~ THE AMOUNT SPECIFIED IN SUBSECTION (2)(A) OR (2)(B). An account holder who deposits more  
 23 than ~~\$3,000~~ THE AMOUNT SPECIFIED IN SUBSECTION (2)(A) OR (2)(B) into an account in a year may  
 24 exclude from the account holder's adjusted gross income, in accordance with 15-30-111(2)(k), in a  
 25 subsequent year any part of ~~\$3,000~~ THE AMOUNT SPECIFIED IN SUBSECTION (2)(A) OR (2)(B) per year  
 26 not previously excluded.

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



1 the tax exemption under this section.

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

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

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

13 (9) Within 30 days of being furnished proof of the death of the account holder, the account  
14 administrator shall distribute the principal and accumulated interest or other income in the account to the  
15 estate of the account holder."

16

17 **NEW SECTION. Section 5. Withdrawal of funds from account for purposes other than eligible**  
18 **costs for first-time home purchase.** (1) An account holder may withdraw money from the first-time home  
19 buyer's savings account for any purpose other than eligible costs for the first-time purchase of a  
20 single-family residence only on the last business day of the account administrator's business year. Money  
21 withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the account  
22 holder.

23 (2) If the account holder withdraws money from the account other than for eligible costs for the  
24 purchase of a single-family residence or other than on the last business day of the account administrator's  
25 business year, the account administrator shall withhold from the amount of the withdrawal and, on behalf  
26 of the account holder, pay as a penalty to the department an amount equal to 10% of the amount of the  
27 withdrawal. Payments made to the department pursuant to this section must be deposited in the general  
28 fund. Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of  
29 the account holder.

30 (3) For the purposes of this section, "last business day of the account administrator's business

1 year", as applied to an account administrator who is also the account holder, means the last weekday in  
2 December.

3

4 NEW SECTION. Section 6. Administration of account. (1) An account administrator shall  
5 administer the first-time home buyer savings account from which the payment of eligible costs for the  
6 purchase of a single-family residence is made and has a fiduciary duty to the person for whose benefit the  
7 account is administered. EXCEPT FOR REPORTING AND REMITTING OF PENALTIES TO THE DEPARTMENT,  
8 A FINANCIAL INSTITUTION SHALL ADMINISTER A FIRST-TIME HOME BUYER'S SAVINGS ACCOUNT AS  
9 A REGULAR DEPOSIT. A FINANCIAL INSTITUTION IS NOT RESPONSIBLE FOR THE USE OR APPLICATIONS  
10 OF FUNDS.

11 (2) Within 30 days after an account administrator begins to administer an account, the account  
12 administrator shall notify in writing each account holder on whose behalf the account administrator  
13 administers an account of the date of the last business day of the account administrator's business year.

14 (3) An account administrator may use funds held in a first-time home buyer savings account only  
15 for the purpose of paying the eligible costs of the account holder or paying the expenses of administering  
16 the account.

17 (4) The account holder may submit documentation of eligible costs paid by the account holder in  
18 the tax year to the account administrator, and the account administrator shall reimburse the account holder  
19 from the account holder's account for eligible costs for the first-time purchase of a single-family residence.  
20 THE BURDEN OF PROVING THAT A WITHDRAWAL FROM A FIRST-TIME HOME BUYER'S SAVINGS  
21 ACCOUNT WAS MADE FOR ELIGIBLE COSTS IS UPON THE ACCOUNT HOLDER AND NOT UPON THE  
22 ACCOUNT ADMINISTRATOR.

23 (5) In the case of an account administrator who is also the account holder:

24 (a) notice by the account administrator to the account holder pursuant to subsection (2) is not  
25 required;

26 (b) the account administrator may not use funds held in an account to pay expenses of  
27 administering the account;

28 (c) documentation of the segregation of funds in separate accounts and documentation of eligible  
29 costs for the purchase of a single-family residence must be maintained but is not required to be submitted  
30 to the account administrator; ~~and~~

1 (d) the account administrator shall file reports as reasonably required by the department; AND  
2 (E) THE ACCOUNT HOLDER IS REQUIRED TO FORWARD THE 10% PENALTY ON FUNDS  
3 WITHDRAWN FOR OTHER THAN ELIGIBLE COSTS TO THE DEPARTMENT.  
4

5 NEW SECTION. Section 7. False claims prohibited. A person who knowingly prepares or causes  
6 to be prepared a false claim, receipt, statement, or billing to justify the withdrawal of money from an  
7 account is subject to the provisions of 15-61-205.

8  
9 **Section 8.** Section 15-30-111, MCA, is amended to read:

10 **"15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal income  
11 tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954, as that section  
12 may be labeled or amended, and in addition includes the following:

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

16 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,  
17 as that section may be amended or renumbered, that are attributable to the interest referred to in  
18 subsection (1)(a)(i);

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

21 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue  
22 Code of 1954 that has been reduced by any federal taxes paid by the subchapter S. corporation on the  
23 income;

24 (d) depreciation or amortization taken on a title plant as defined in 33-25-105(15); and

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

27 (2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or  
28 amended, adjusted gross income does not include the following, which are exempt from taxation under this  
29 chapter:

30 (a) (i) all interest income from obligations of the United States government, the state of Montana,

1 county, municipality, district, or other political subdivision of the state and any other interest income that  
2 is exempt from taxation by Montana under federal law;

3 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,  
4 as that section may be amended or renumbered, that are attributable to the interest referred to in  
5 subsection (2)(a)(i);

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

8 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income  
9 received as defined in 15-30-101;

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

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

14 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity  
15 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided  
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17 \$30,000 as shown on their joint return;

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20 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by  
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22 received by persons for services rendered by them to patrons of premises licensed to provide food,  
23 beverage, or lodging;

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

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1 taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the  
2 taxpayer;

3 (k) principal and income in a first-time home buyer savings account established in accordance with  
4 [section 3] or withdrawn from an account for eligible costs, as provided in [section 4(7)], for the first-time  
5 purchase of a single-family residence; and

6 ~~(k)(l)~~ the recovery during the tax year of any amount deducted in any prior tax year to the extent  
7 that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted.

8 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l)  
9 shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same  
10 manner as provided by section 995 of the Internal Revenue Code for all periods for which the DISC election  
11 is effective.

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13 business deductions by an amount for wages and salaries for which a federal tax credit was elected under  
14 section 44B of the Internal Revenue Code of 1954, as that section may be labeled or amended, is allowed  
15 to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must  
16 be made in the year the wages and salaries were used to compute the credit. In the case of a partnership  
17 or small business corporation, the deduction must be made to determine the amount of income or loss of  
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21 the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1  
22 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be  
23 split equally on the Montana return.

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25 the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross  
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29 exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's  
30 eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the

1 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined  
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3 to engage in any substantial gainful activity by reason of any medically determined physical or mental  
4 impairment lasting or expected to last at least 12 months. (Subsection (2)(f) terminates on occurrence of  
5 contingency--sec. 3, Ch. 634, L. 1983.)"

6  
7 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 7] are intended to be  
8 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 7].

9  
10 **NEW SECTION. Section 10. Effective date.** [This act] is effective January 1, 1998.

11 -END-