

1 SENATE BILL NO. 514

2 INTRODUCED BY B. MOLNAR

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INDIVIDUAL INCOME TAX REFUNDS OF  
5 SURPLUS REVENUE; PROVIDING ~~REFUNDABLE~~ NONREFUNDABLE INCOME TAX CREDITS FOR  
6 SOCIAL SECURITY, TIER 1 RAILROAD RETIREMENT, AND MILITARY PENSION OR MILITARY  
7 RETIREMENT INCOME SUBJECT TO STATE INCOME TAXES IN ~~2021 AND~~ 2022; PROVIDING A  
8 ~~REFUNDABLE~~ NONREFUNDABLE INCOME TAX CREDIT FOR INCOME THAT WAS TAXED AT A RATE  
9 EXCEEDING 5.9% IN TAX YEAR 2022; PROVIDING A REDUCTION OF CREDITS BASED ON FILING  
10 STATUS AND ADJUSTED GROSS INCOME; PROVIDING DEFINITIONS; PROVIDING RULEMAKING  
11 AUTHORITY; AMENDING SECTIONS 15-30-2110 AND 15-30-2120, MCA; AND PROVIDING EFFECTIVE  
12 DATES, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

13

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

15

16 NEW SECTION. Section 1. Surplus revenue income tax credits -- social security and tier 1  
17 railroad retirement income -- military pension and retirement income -- rate reduction. (1) For tax year  
18 2023, an individual resident taxpayer is allowed credits against the taxes imposed by 15-30-2103 in an amount  
19 equal to the total amount of state income taxes paid on:

20 (a) social security benefits or tier 1 railroad retirement benefits received or accrued while a resident  
21 of the state in tax ~~years 2021 and year~~ 2022;

22 (b) military pensions or military retirement income received or accrued while a resident of the state  
23 in tax ~~years 2021 and year~~ 2022; and

24 (c) taxable income that was taxed at a rate greater than 5.9% while a resident of the state in tax  
25 year 2022.

26 (2) For the purpose of subsections (1)(a) and (1)(b), the department shall prepare forms that are  
27 filed with the 2023 individual income tax return that provide for a calculation of the amount of tax liabilities a  
28 taxpayer would have had in tax ~~years 2021 and year~~ 2022 if social security or tier 1 railroad retirement income

1 and military pension or military retirement income were exempt from income tax in tax ~~years 2021 and year~~  
 2 2022. ~~The Subject to subsection (4),~~ credit amount is equal to the amount of tax liability reported on the ~~2021~~  
 3 ~~and 2022 returns return~~ minus the tax liability as recalculated pursuant to this subsection. The recalculated tax  
 4 amount must provide for a reduction in tax rates pursuant to subsection (3). ~~If the recalculated tax liability is~~  
 5 ~~less than zero, the credit must also include the amount of the refund that would have been issued.~~

6 (3) For the purpose of subsection (1)(c), the department shall prepare a form that is filed with the  
 7 2023 individual income tax return that provides for a calculation of the amount of tax liabilities a taxpayer would  
 8 have had in tax year 2022 if the rate of tax in 15-30-2103(1)(f) and (1)(g) was 5.9%. The credit amount is equal  
 9 to the amount of tax liability reported on the 2022 return minus the tax liability as recalculated pursuant to this  
 10 subsection. The recalculated tax amount must provide for a reduction in tax liability pursuant to subsection (2).  
 11 ~~If the recalculated tax liability is less than zero, the credit must also include the amount of the refund that would~~  
 12 ~~have been issued.~~

13 (4) (a) ~~The combined credits in subsection (2) for married individuals filing a joint return when both~~  
 14 ~~spouses receive taxable benefits, military pension, or military retirement income are reduced at a rate of \$50 for~~  
 15 ~~each \$1,000 of federal adjusted gross income on the joint return in excess of \$65,000.~~

16 (b) ~~The credits provided for in subsection (2) are reduced at a rate of \$25 for each \$1,000 of the~~  
 17 ~~taxpayer's federal adjusted gross income in excess of:~~

18 (i) ~~\$65,000 for every married individual who files a joint return when only one spouse has taxable~~  
 19 ~~benefits, military pension, or military retirement income and for every surviving spouse;~~

20 (ii) ~~\$55,000 for every head of household; and~~

21 (iii) ~~\$45,000 for every individual other than a surviving spouse or head of household who is not a~~  
 22 ~~married individual.~~

23 (4)(5) The credits provided by this section may ~~be claimed even though the taxpayer has no income~~  
 24 ~~taxable under this chapter not exceed the taxpayer's tax liability and may not be carried forward or carried back.~~

25 (5)(6) The department may adopt rules, prepare forms, and maintain records that are necessary to  
 26 implement the credits provided by this section.

27 (6)(7) The tax credits received pursuant to this section are exempt from state income taxes.

28 (7)(8) For the purposes of this section, "military pension or military retirement income" means money

1 that is received by a retired member of:

- 2 (a) the armed forces of the United States, as defined in 10 U.S.C. 101;
- 3 (b) the Montana army national guard or the army national guard of other states;
- 4 (c) the Montana air national guard or the air national guard of other states; or
- 5 (d) a reserve component, as defined in 38 U.S.C. 101, of the United States armed forces; and
- 6 (e) all income received as survivor benefits for military service provided for in subsections

7 ~~(7)(a)(8)(a)~~ through ~~(7)(e)(8)(d)~~.

8

9 **Section 2.** Section 15-30-2110, MCA, is amended to read:

10 **"15-30-2110. (Temporary) Adjusted gross income.** (1) Subject to subsection (15), adjusted gross  
11 income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code,  
12 26 U.S.C. 62, and in addition includes the following:

- 13 (a) (i) interest received on obligations of another state or territory or county, municipality, district, or  
14 other political subdivision of another state, except to the extent that the interest is exempt from taxation by  
15 Montana under federal law;
- 16 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26  
17 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);
- 18 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a  
19 reduction of Montana income tax liability as determined under subsection (16);
- 20 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal  
21 Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the  
22 income;
- 23 (d) depreciation or amortization taken on a title plant as defined in 33-25-105;
- 24 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that  
25 the amount recovered reduced the taxpayer's Montana income tax in the year deducted;
- 26 (f) if the state taxable distribution of an estate or trust is greater than the federal taxable  
27 distribution of the same estate or trust, the difference between the state taxable distribution and the federal  
28 taxable distribution of the same estate or trust for the same tax period; and

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1 (g) except for exempt-interest dividends described in subsection (2)(a)(ii), the amount of any  
2 dividend to the extent that the dividend is not included in federal adjusted gross income.

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

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

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

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

12 (c) (i) except as provided in subsection (2)(c)(ii) and subject to subsection (17), the first \$4,070 of  
13 all pension and annuity income received as defined in 15-30-2101;

14 (ii) subject to subsection (17), for pension and annuity income described under subsection (2)(c)(i),  
15 as follows:

16 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total  
17 amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in  
18 excess of \$33,910 as shown on the taxpayer's return;

19 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity  
20 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in  
21 subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910  
22 as shown on their joint return;

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

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

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

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- 1 (g) all benefits received under the workers' compensation laws;
- 2 (h) all health insurance premiums paid by an employer for an employee if attributed as income to  
3 the employee under federal law;
- 4 (i) all money received because of a settlement agreement or judgment in a lawsuit brought  
5 against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";
- 6 (j) principal and income in a medical care savings account established in accordance with 15-61-  
7 201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, including a medical  
8 care savings account inherited by an immediate family member as provided in 15-61-202(6);
- 9 (k) principal and income in a first-time home buyer savings account established in accordance with  
10 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time  
11 purchase of a single-family residence;
- 12 (l) contributions or earnings withdrawn from an account established under the Montana family  
13 education savings program, Title 15, chapter 62, or from a qualified tuition program established and maintained  
14 by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C.  
15 529(b)(1)(A)(ii), for qualified education expenses, as defined in 15-62-103, of a designated beneficiary;
- 16 (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that  
17 the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;
- 18 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable  
19 distribution of the same estate or trust, the difference between the federal taxable distribution and the state  
20 taxable distribution of the same estate or trust for the same tax period;
- 21 (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and  
22 ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a  
23 deduction is not provided for federal income tax purposes;
- 24 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income  
25 pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the  
26 child and taxpayer meet the filing requirements in 15-30-2602.
- 27 (q) principal and income deposited in a health care expense trust account, as defined in 2-18-  
28 1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

1 (r) the amount of the gain recognized from the sale or exchange of a mobile home park as  
2 provided in 15-31-163;

3 (s) the amount of a scholarship to an eligible student by a student scholarship organization  
4 pursuant to 15-30-3104; ~~and~~

5 (t) a payment received by a private landowner for providing public access to public land pursuant  
6 to Title 76, chapter 17, part 1; and

7 (u) the amount of income tax credits received pursuant to [section 1].

8 (3) A shareholder of a DISC that is exempt from the corporate income 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, 26 U.S.C. 995, for all periods for which the  
11 DISC election is effective.

12 (4) (a) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's  
13 business deductions:

14 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections  
15 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the  
16 wages and salaries paid regardless of the credit taken; or

17 (ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to  
18 deduct the amount of the business expense paid when there is no corresponding state income tax credit or  
19 deduction, regardless of the credit taken.

20 (b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or  
21 business expenses were used to compute the credit. In the case of a partnership or small business corporation,  
22 the deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership  
23 or small business corporation.

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

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

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

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

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

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

25          (10)    A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the  
26 end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross  
27 income up to \$100 a week received as wages or payments in lieu of wages for a period during which the  
28 employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds

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1 \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion,  
2 but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion  
3 separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their  
4 combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means  
5 unable to engage in any substantial gainful activity by reason of any medically determined physical or mental  
6 impairment lasting or expected to last at least 12 months.

7 (11) (a) An individual who contributes to one or more accounts established under the Montana  
8 family education savings program or to a qualified tuition program established and maintained by another state  
9 as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce  
10 adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married  
11 taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the  
12 accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made  
13 by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to  
14 contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's  
15 child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e)  
16 do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

17 (b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in  
18 15-62-208.

19 (12) (a) An individual who contributes to one or more accounts established under the Montana  
20 achieving a better life experience program or to a qualified program established and maintained by another  
21 state may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case  
22 of married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses'  
23 contributions to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the  
24 spouses as being made by each spouse. The reduction in adjusted gross income under this subsection (12)(a)  
25 applies only with respect to contributions to an account for which the account owner is the taxpayer, the  
26 taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident.  
27 The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced  
28 adjusted gross income.

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1 (b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in  
2 53-25-118.

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

5 (i) is a health care professional licensed in Montana as provided in Title 37;

6 (ii) is serving a significant portion of a designated geographic area, special population, or facility  
7 population in a federally designated health professional shortage area, a medically underserved area or  
8 population, or a federal nursing shortage county as determined by the secretary of health and human services  
9 or by the governor;

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

11 (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan  
12 repayment program described in subsection (13)(b) as an incentive to practice in Montana.

13 (b) For the purposes of subsection (13)(a), a loan repayment program includes a federal, state, or  
14 qualified private program. A qualified private loan repayment program includes a licensed health care facility, as  
15 defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility  
16 as a licensed health care professional.

17 (14) A taxpayer may exclude the amount of loan repayment assistance received during the tax year  
18 pursuant to Title 20, chapter 4, part 5, not to exceed \$5,000, from the taxpayer's adjusted gross income.

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

22 (16) A refund received of federal income tax referred to in subsection (1)(b) must be allocated in the  
23 following order as applicable:

24 (a) to federal income tax in a prior tax year that was not deducted on the state tax return in that  
25 prior tax year;

26 (b) to federal income tax in a prior tax year that was deducted on the state tax return in that prior  
27 tax year but did not result in a reduction in state income tax liability in that prior tax year; and

28 (c) to federal income tax in a prior tax year that was deducted on the state tax return in that prior

1 tax year and that reduced the taxpayer's state income tax liability in that prior tax year.

2 (17) By November 1 of each year, the department shall multiply the amount of pension and annuity  
3 income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)  
4 by the inflation factor for the following tax year, rounded to the nearest \$10. The resulting amounts are effective  
5 for that following tax year and must be used as the basis for the exemption determined under subsection (2)(c).  
6 (Repealed effective January 1, 2024--secs. 65, 70(1), Ch. 503, L. 2021; subsection (2)(f) terminates on  
7 occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of  
8 contingency--sec. 9, Ch. 262, L. 2001; subsection (2)(t) terminates June 30, 2027--sec. 10, Ch. 374, L. 2017;  
9 subsection (2)(s) terminates December 31, 2029--sec. 20, Ch. 480, L. 2021.)"

10

11 **Section 3.** Section 15-30-2120, MCA, is amended to read:

12 **"15-30-2120. (Effective January 1, 2024) Adjustments to federal taxable income to determine**  
13 **Montana taxable income.** (1) The items in subsection (2) are added to and the items in subsection (3) are  
14 subtracted from federal taxable income to determine Montana taxable income.

15 (2) The following are added to federal taxable income:

16 (a) to the extent that it is not exempt from taxation by Montana under federal law, interest from  
17 obligations of a territory or another state or any political subdivision of a territory or another state and exempt-  
18 interest dividends attributable to that interest except to the extent already included in federal taxable income;

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

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

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

25 (e) an item of income, deduction, or expense to the extent that it was used to calculate federal  
26 taxable income if the item was also used to calculate a credit against a Montana income tax liability;

27 (f) a deduction for an income distribution from an estate or trust to a beneficiary that was included  
28 in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal

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1 Revenue Code, 26 U.S.C. 651 and 661;

2 (g) a withdrawal from a medical care savings account provided for in Title 15, chapter 61, used for  
3 a purpose other than an eligible medical expense or long-term care of the employee or account holder or a  
4 dependent of the employee or account holder;

5 (h) a withdrawal from a first-time home buyer savings account provided for in Title 15, chapter 63,  
6 used for a purpose other than for eligible costs for the purchase of a single-family residence;

7 (i) for a taxpayer that deducts the qualified business income deduction pursuant to section 199A  
8 of the Internal Revenue Code, 26 U.S.C. 199A, an amount equal to the qualified business income deduction  
9 claimed; and

10 (j) for a taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the Internal  
11 Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction claimed, not  
12 to exceed the amount required to reduce the federal itemized amount computed under section 161 of the  
13 Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under  
14 section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c).

15 (3) To the extent they are included as income or gain or not already excluded as a deduction or  
16 expense in determining federal taxable income, the following are subtracted from federal taxable income:

17 (a) a deduction for an income distribution from an estate or trust to a beneficiary in accordance  
18 with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661, recalculated according to the  
19 additions and subtractions in subsections (2) and (3)(b) through ~~(3)(m)~~ (3)(n);

20 (b) if exempt from taxation by Montana under federal law:

21 (i) interest from obligations of the United States government and exempt-interest dividends  
22 attributable to that interest; and

23 (ii) railroad retirement benefits;

24 (c) (i) salary received from the armed forces by residents of Montana who are serving on active  
25 duty in the regular armed forces and who entered into active duty from Montana;

26 (ii) the salary received by residents of Montana for active duty in the national guard. For the  
27 purposes of this subsection (3)(c)(ii), "active duty" means duty performed under an order issued to a national  
28 guard member pursuant to:

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- 1 (A) Title 10, U.S.C.; or
- 2 (B) Title 32, U.S.C., for a homeland defense activity, as defined in 32 U.S.C. 901, or a contingency
- 3 operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland
- 4 defense activity or contingency operation.
- 5 (iii) the amount received pursuant to 10-1-1114 or from the federal government by a service
- 6 member, as defined in 10-1-1112, as reimbursement for group life insurance premiums paid;
- 7 (iv) the amount received by a beneficiary pursuant to 10-1-1201; and
- 8 (v) all payments made under the World War I bonus law, the Korean bonus law, and the veterans'
- 9 bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law,
- 10 Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the
- 11 filing of an amended return and a verified claim for refund on forms prescribed by the department in the same
- 12 manner as other income tax refund claims are paid.
- 13 (d) interest and other income related to contributions that were made prior to January 1, 2024, that
- 14 are retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for
- 15 payment of eligible medical expenses or for the long-term care of the employee or account holder or a
- 16 dependent of the employee or account holder;
- 17 (e) contributions or earnings withdrawn from a family education savings account provided for in
- 18 Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as
- 19 provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified
- 20 education expenses, as defined in 15-62-103, of a designated beneficiary;
- 21 (f) interest and other income related to contributions that were made prior to January 1, 2024, that
- 22 are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal
- 23 for payment of eligible costs for the first-time purchase of a single-family residence;
- 24 (g) for each taxpayer that has attained the age of 65, an additional subtraction of \$5,500;
- 25 (h) the amount of a scholarship to an eligible student by a student scholarship organization
- 26 pursuant to 15-30-3104;
- 27 (i) a payment received by a private landowner for providing public access to public land pursuant
- 28 to Title 76, chapter 17, part 1;

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1 (j) the amount of any refund or credit for overpayment of income taxes imposed by this state or  
2 any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not  
3 previously allowed as a deduction for Montana income tax purposes;

4 (k) the recovery during the tax year of any amount deducted in any prior tax year to the extent that  
5 the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

6 (l) an amount equal to 30% of net-long term capital gains, as defined in section 1222 of the  
7 Internal Revenue Code, 26 U.S.C. 1222, if and to the extent such gain is taken into account in computing  
8 federal taxable income; ~~and~~

9 (m) the amount of the gain recognized from the sale or exchange of a mobile home park as  
10 provided in 15-31-163; and

11 (n) the amount of income tax credits received pursuant to [section 1].

12 (4) (a) A taxpayer who, in determining federal taxable income, has reduced the taxpayer's  
13 business deductions:

14 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections  
15 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the  
16 wages and salaries paid regardless of the credit taken; or

17 (ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to  
18 deduct the amount of the business expense paid when there is no corresponding state income tax credit or  
19 deduction, regardless of the credit taken.

20 (b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or  
21 business expenses were used to compute the credit. In the case of a partnership or small business corporation,  
22 the deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership  
23 or small business corporation.

24 (5) (a) An individual who contributes to one or more accounts established under the Montana  
25 family education savings program or to a qualified tuition program established and maintained by another state  
26 as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce  
27 taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each  
28 spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts.

1 Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each  
2 spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions  
3 to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or  
4 stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not  
5 apply with respect to withdrawals of contributions that reduced federal taxable income.

6 (b) Contributions made pursuant to this subsection (5) are subject to the recapture tax provided for  
7 in 15-62-208.

8 (6) (a) An individual who contributes to one or more accounts established under the Montana  
9 achieving a better life experience program or to a qualified program established and maintained by another  
10 state may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of  
11 married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions  
12 to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as  
13 being made by each spouse. The reduction in taxable income under this subsection (6)(a) applies only with  
14 respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or  
15 the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of  
16 subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

17 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in  
18 53-25-118.

19 (7) By November 1 of each year, the department shall multiply the subtraction from federal taxable  
20 income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for  
21 that tax year, rounding the result to the nearest \$10. The resulting amount is effective for that tax year and must  
22 be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g)."  
23

24 NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an  
25 integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section  
26 1].  
27

28 NEW SECTION. **Section 5. Effective dates.** (1) Except as provided in subsection (2), [this act] is

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1 effective on passage and approval.

2 (2) [Section 3] is effective January 1, 2024.

3

4 NEW SECTION. Section 6. Retroactive applicability. [Sections 1 and 2] apply retroactively, within  
5 the meaning of 1-2-109, to the tax year beginning January 1, 2023.

6

7 NEW SECTION. Section 7. Termination. [Sections 1 through 3] terminate December 31, 2024.

8

- END -