

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXCLUSION FROM INCOME FOR INCOME TAX
5 PURPOSES OF A PORTION OF INCOME FROM THE SALE OF CERTAIN NEWLY CONSTRUCTED
6 RESIDENCES; PROVIDING A DEFINITION; AMENDING SECTIONS 15-30-2120 AND 15-31-114, MCA; AND
7 PROVIDING AN APPLICABILITY DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 15-30-2120, MCA, is amended to read:

12 **"15-30-2120. Adjustments to federal taxable income to determine Montana taxable income. (1)**

13 The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable
14 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

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;

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

15 (k) for a pass-through entity, estate, or trust, the amount of state income taxes deducted pursuant
16 to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C 164(a)(3).

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

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

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

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

25 (ii) railroad retirement benefits;

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

28 (ii) the salary received by residents of Montana for active duty in the national guard. For the

1 purposes of this subsection (3)(c)(ii), "active duty" means duty performed under an order issued to a national
2 guard member pursuant to:

3 (A) Title 10, U.S.C.; or

4 (B) Title 32, U.S.C., for a homeland defense activity, as defined in 32 U.S.C. 901, or a contingency
5 operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland
6 defense activity or contingency operation.

7 (iii) the amount received by a beneficiary pursuant to 10-1-1201; and

8 (iv) 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) annual contributions and income in a medical care savings account provided for in Title 15,
14 chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the
15 employee or account holder or a dependent of the employee or account holder;

16 (e) contributions or earnings withdrawn from a family education savings account provided for in
17 Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as
18 provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified
19 education expenses, as defined in 15-62-103, of a designated beneficiary;

20 (f) interest and other income related to contributions that were made prior to January 1, 2024, that
21 are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal
22 for payment of eligible costs for the first-time purchase of a single-family residence;

23 (g) for each taxpayer that has attained the age of 65, an additional subtraction of \$5,500;

24 (h) the amount of a scholarship to an eligible student by a student scholarship organization
25 pursuant to 15-30-3104;

26 (i) a payment received by a private landowner for providing public access to public land pursuant
27 to Title 76, chapter 17, part 1;

28 (j) the amount of any refund or credit for overpayment of income taxes imposed by this state or

1 any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not
2 previously allowed as a deduction for Montana income tax purposes;

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

5 (l) the amount of the gain recognized from the sale or exchange of a mobile home park as
6 provided in 15-31-163;

7 (m) payments from the Montana end of watch trust as provided in 2-15-2041;

8 (n) (i) subject to subsection (9), a portion of military pensions or military retirement income as
9 calculated pursuant to subsection (8) that is received by a retired member of:

10 (A) the armed forces of the United States, as defined in 10 U.S.C. 101;

11 (B) the Montana army national guard or the army national guard of other states;

12 (C) the Montana air national guard or the air national guard of other states; or

13 (D) a reserve component, as defined in 38 U.S.C. 101, of the United States armed forces; and

14 (ii) subject to subsection (9), up to 50% of all income received as survivor benefits for military
15 service provided for in subsection (3)(n)(i)(A) through (3)(n)(i)(D); and

16 (o) the amount of the property tax rebate received under 15-1-2302; and

17 (p) 50% of the income generated from the sale of a newly constructed single-family residence or
18 duplex constructed and sold by the taxpayer to a third party for less than 85% of the county median residential
19 value according to the prior periodic reappraisal provided for in 15-7-111. The subtraction provided for in this
20 subsection (3)(p) is disallowed if the taxpayer received compensation in addition to the sales price, in cash or in
21 any other form, that when added to the sales price exceeds 85% of the county residential median value
22 according to the prior periodic reappraisal.

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

25 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections
26 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
27 wages and salaries paid regardless of the credit taken; or

28 (ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to

1 deduct the amount of the business expense paid when there is no corresponding state income tax credit or
2 deduction, regardless of the credit taken.

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

7 (5) (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 in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce
10 taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each
11 spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts.
12 Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each
13 spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions
14 to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or
15 stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not
16 apply with respect to withdrawals of contributions that reduced federal taxable income.

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

19 (6) (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 taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of
22 married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions
23 to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as
24 being made by each spouse. The reduction in taxable income under this subsection (6)(a) applies only with
25 respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or
26 the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of
27 subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

28 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in

1 53-25-118.

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

6 (8) (a) Subject to subsection (9), the subtraction in subsection (3)(n)(i) is equal to the lesser of:

7 (i) the amount of Montana source wage income on the return; or

8 (ii) 50% of the taxpayer's military pension or military retirement income.

9 (b) For the purposes of subsection (8)(a)(i), "Montana source wage income" means:

10 (i) wages, salary, tips, and other compensation for services performed in the state;

11 (ii) net income from a trade, business, profession, or occupation carried on in the state; and

12 (iii) net income from farming activities carried on in the state.

13 (9) The subtractions in subsection (3)(n):

14 (a) may only be claimed by a person who:

15 (i) becomes a resident of the state after June 30, 2023; or

16 (ii) was a resident of the state before receiving military pension or military retirement income and
17 remained a resident after receiving military pension or military retirement income;

18 (b) may only be claimed for 5 consecutive years after satisfying the provisions of subsection (9)(a);

19 and

20 (c) are not available if a taxpayer claimed the exemption before becoming a nonresident.

21 (10) For the subtraction in subsection (3)(p), the department shall calculate the county median
22 residential value every 2 years as part of the periodic reappraisal provided for in 15-7-111.

23 (11) As used in this section, "county median residential value" means the median value of a single-
24 family residence, including the land, located in the county rounded to the nearest thousand dollars. (Subsection
25 (3)(o) terminates June 30, 2025--sec. 10, Ch. 47, L. 2023; subsections (3)(n), (8), and (9) terminate December
26 31, 2033--sec. 4, Ch. 650, L. 2023.)"

27

28 **Section 2.** Section 15-31-114, MCA, is amended to read:

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

4 (a) all the ordinary and necessary expenses paid or incurred during the taxable year in the
5 maintenance and operation of its business and properties, including reasonable allowance for salaries for
6 personal services actually rendered, subject to the limitation contained in this section, and rentals or other
7 payments required to be made as a condition to the continued use or possession of property to which the
8 corporation has not taken or is not taking title or in which it has no equity. A deduction is not allowed for salaries
9 paid upon which the recipient has not paid Montana state income tax. However, when domestic corporations
10 are taxed on income derived from outside the state, salaries of officers paid in connection with securing the
11 income are deductible.

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

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

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

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

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

6 (A) taxes imposed by this part;

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

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

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

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

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

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

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

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

21 (h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-
22 209, 81-7-118, or 81-7-201; and

23 (i) 50% of the income generated from the sale of a newly constructed single-family residence or
24 duplex constructed and sold by the taxpayer to a third party for less than 85% of the county median residential
25 value according to the prior periodic reappraisal provided for in 15-7-111. The subtraction provided for in this
26 subsection (1)(i) is disallowed if the taxpayer received compensation in addition to the sales price, in cash or in
27 any other form, that when added to the sales price exceeds 85% of the county residential median value
28 according to the prior periodic reappraisal.

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

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

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

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

12 (3) In the case of a regulated investment company or a fund of a regulated investment company,
 13 as defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as
 14 that section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in
 15 section 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or
 16 renumbered, except that the deduction for dividends is not allowed with respect to dividends attributable to any
 17 income that is not subject to tax under this chapter when earned by the regulated investment company. For the
 18 purposes of computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the
 19 Internal Revenue Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or
 20 renumbered, apply. A regulated investment company is not allowed a deduction for dividends received as
 21 defined in sections 243 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as
 22 those sections may be amended or renumbered.

23 (4) For the subtraction in subsection (1)(i), the department shall calculate the county median
 24 residential value every 2 years as part of the periodic reappraisal provided for in 15-7-111.

25 (5) As used in this section, "county median residential value" means the median value of a single-
 26 family residence, including the land, located in the county rounded to the nearest thousand dollars."

27
 28 NEW SECTION. Section 3. Applicability. [This act] applies to income tax years beginning after

1 December 31, 2025.

2

- END -