

HOUSE BILL NO. 222

INTRODUCED BY T. WELCH, C. KNUDSEN, J. DOOLING, D. LOGE, R. FITZGERALD, J. ELLSWORTH, D.

ZOLNIKOV, J. KASSMIER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PROPERTY TAX REBATE ON A PRINCIPAL RESIDENCE BASED ON A CERTAIN AMOUNT OF PROPERTY TAXES PAID; PROVIDING A REBATE OF PROPERTY TAXES UP TO ~~\$1,000~~ \$500 A YEAR FOR TAX YEARS 2022 AND 2023 FOR A PRINCIPAL RESIDENCE THAT WAS OCCUPIED BY THE TAXPAYER; PROVIDING A PENALTY FOR FALSE OR FRAUDULENT CLAIMS; PROVIDING DEFINITIONS; PROVIDING A RENTER PROPERTY TAX REFUND; PROVIDING THAT THE PROPERTY TAX REBATE ~~IS~~ AND THE RENTER PROPERTY TAX REFUND ARE NOT SUBJECT TO THE MONTANA INDIVIDUAL INCOME TAX; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-30-2110, 15-30-2120, AND 17-7-502, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 3], the following definitions apply:

(1) "Montana property taxes" means the ad valorem property taxes, special assessments, and other fees imposed on property classified under 15-6-134 that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that were assessed and paid by the taxpayer as follows:

(a) for tax year 2022, the amount of Montana property taxes assessed and paid is equal to the total amount billed by the local government for the dwelling as shown on the 2022 property tax bill received by the taxpayer with a first-half payment due in or around November 2022 and a second-half payment due in or around May 2023; and

(b) for tax year 2023, the amount of Montana property taxes assessed and paid is equal to the

total amount billed by the local government for the dwelling as shown on the 2023 property tax bill received by the taxpayer with a first-half payment due in or around November 2023 and a second-half payment due in or around May 2024.

(2) "Owned" includes purchasing under a contract for deed and being the grantor or grantors under a revocable trust indenture.

(3) (a) "Principal residence" is, subject to the provisions of subsection (3)(b), a dwelling:

(i) in which a taxpayer can demonstrate the taxpayer owned and lived in for at least 7 months of the year for which the rebate is claimed;

(ii) that is the only residence for which the property tax rebate is claimed; and

(iii) for which the taxpayer made payment of the assessed Montana property taxes during tax year 2022 and tax year 2023.

(b) A taxpayer that cannot meet the requirements of subsection (3)(a)(i) because the taxpayer's principal residence changes during the tax year to another principal residence may still claim a rebate if the taxpayer paid the Montana property taxes while residing in each principal residence for a total of at least 7 consecutive months for each tax year.

(4) "Tax year 2022" means the period January 1, 2022, through December 31, 2022.

(5) "Tax year 2023" means the period January 1, 2023, through December 31, 2023.

NEW SECTION. Section 2. Property tax rebate -- manner of claiming -- limitations --

appropriation. (1) Subject to the conditions provided for in [sections 1 through 3], there is a rebate of Montana property taxes in the amount of:

(a) ~~\$1,000~~ \$500 or the amount of total property taxes paid, whichever is less, for tax year 2022; and

(b) ~~\$1,000~~ \$500 or the amount of total property taxes paid, whichever is less, for tax year 2023.

(2) The rebate provided for in subsection (1) is for Montana property taxes assessed to and paid by a taxpayer or taxpayers on property they owned and occupied as a principal residence during the relevant tax year.

(3) The department shall mail a notice to potential claimants by June 30, 2023, for tax year 2022

and by June 30, 2024, for tax year 2023. Receipt of a notice does not establish that a taxpayer or property owner is eligible for a rebate, and a taxpayer who does not receive a notice may still be eligible to claim a rebate. All taxpayers, regardless of the receipt of notice, shall claim a rebate as provided in subsection (5).

(4) Except as provided in subsections (5)(c) and (5)(d), a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre that is owned by an entity is not eligible to claim the rebate.

(5) (a) All claims for this property tax rebate must be submitted to the department electronically or by mail for each tax year the rebate is claimed.

(i) Electronic claims must be submitted between August 15 and October 1 each year through the department's website.

(ii) Claims submitted by mail must be made on a form prescribed by the department and postmarked by October 1 each year.

(b) Subject to subsections (5)(c) and (5)(d), a claim for rebate must be submitted, under penalty of false swearing and the penalties provided in [section 3], on a form prescribed by the department and must contain:

(i) an affirmation that the claimant owns and maintains the land and improvements as the principal residence as defined in [section 1];

(ii) the geocode or other property identifier for the principal residence that the claimant is requesting the rebate on;

(iii) the social security number of the claimant, the claimant's spouse, and any dependents; and

(iv) any other information as required by the department that is relevant to the claimant's eligibility.

(c) The personal representative of the estate of a deceased taxpayer may execute and file the claim for rebate on behalf of a deceased taxpayer who qualifies for the rebate.

(d) The trustee of a grantor revocable trust may file a claim on behalf of the trust if the dwelling meets the definition of a principal residence for the grantor.

(6) Only one rebate for each tax year will be issued to a taxpayer for the Montana property taxes paid by the taxpayer for tax year 2022 and tax year 2023.

(7) If a debt is due and owing to the state, the department may offset the rebate in this section as

provided in sections 15-30-2629, 15-30-2630, 17-4-105, or as otherwise provided by law.

(8) The payment of property tax rebates and administration costs related to paying property tax refunds under this section are statutorily appropriated, as provided in 17-7-502, from the general fund to the department of revenue for distribution to taxpayers and for related administration costs.

NEW SECTION. Section 3. Property tax rebate -- penalty for false or fraudulent claim. (1) Except as provided in subsection (2), if the department discovers that a rebate paid to a taxpayer exceeded the amount allowed by [sections 1 through 3], the department may, within 1 year from the date the rebate was transmitted to the taxpayer, assess the taxpayer for the difference. The assessment is subject to the uniform dispute review procedure established in 15-1-211.

(2) A person who files a false or fraudulent claim for a property tax rebate under [sections 1 through 3] is subject to criminal prosecution under the provisions of 45-7-202. If a false or fraudulent claim has been paid by the department, the amount paid may be recovered as any other tax owed the state, together with a penalty of 300% of the rebate claimed and interest on the amount of the rebate claimed plus penalty at the rate of 12% a year, until paid. If this rebate plus penalty becomes due and owing, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

NEW SECTION. Section 4. Renter property tax refund credit -- definitions -- statutory appropriation. As used in [sections 4 and 5], the following definitions apply:

(1) "Claim period" means the 2023 income tax year and the 2024 income tax year for individuals required to file Montana individual income tax returns and calendar year 2023 and calendar year 2024 for individuals not required to file Montana individual income tax returns.

(2) "Claimant" means a person who is eligible to file a claim under [section 5].

(3) "Department" means the department of revenue.

(4) "Dwelling" means:

(a) a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home subject to Montana property taxes and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that was rented and occupied by the taxpayer for at least

7 months of the year for which a refund is claimed; or

(b) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal housing authority as provided in Title 7, chapter 15.

(5) "Gross household income" means all income received by all individuals of a household while they are members of the household.

(6) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of the dwelling pursuant to an arm's-length transaction with the landlord.

(7) (a) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(b) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(8) (a) "Income" means, except as provided in subsection (8)(b), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

(i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;

(ii) the amount of capital gains excluded from adjusted gross income;

(iii) alimony;

(iv) support money;

(v) nontaxable strike benefits;

(vi) cash public assistance and relief;

(vii) interest on federal, state, county, and municipal bonds; and

(viii) all payments received under federal social security except social security income paid directly to a nursing home.

(b) For the purposes of this subsection (8), income is reduced by the taxpayer's basis.

(9) "Rent-equivalent tax paid" means 15% of the gross rent.

NEW SECTION. Section 5. Renter property tax refund credit -- eligibility. (1) A taxpayer may

claim a refund for rent-equivalent tax paid on one or more dwellings occupied by the taxpayer for 7 months or more in 2023 and for 7 months or more in 2024 as provided in this section.

(2) (a) The amount of the refund is equal to the amount of the rebate amount in [section 2].

(b) Relief under this section is a credit against the claimant's Montana individual income tax liability for the claim period. If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant. The credit may be claimed even though the claimant has no income taxable under this chapter.

(3) A person is not disqualified as a claimant if the person changes residences during the claim period, provided that the person occupies one or more dwellings in Montana as a renter or lessee for at least 7 months during the claim period.

(4) When the landlord and tenant have not dealt at arm's length and the department judges the gross rent charged to be excessive, the department may adjust the gross rent to a reasonable amount.

(5) A receipt showing gross rent paid must be filed with each claim. In addition, each claimant shall, at the request of the department, supply all additional information necessary to support a claim.

(6) Except as provided in subsection (8), a claim for relief must be submitted at the same time the claimant's 2023 individual income tax return is due. For an individual not required to file a tax return, the claim must be submitted on or before April 15, 2024.

(6) Except as provided in subsection (7), a claim for relief must be submitted at the same time the claimant's 2024 individual income tax return is due. For an individual not required to file a tax return, the claim must be submitted on or before April 15, 2025.

(7) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

(8) In the event that an individual who would have a claim under this section dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

(9) The department or an individual may revise a return and make a claim under this section within 3 years from the last day prescribed for filing a claim for relief.

(10) Only one claimant for each household is entitled to relief.

(11) A claim for relief may not be allowed for any portion of rent-equivalent taxes paid that is derived

from a public rent program.

(12) Except for dwellings rented from a county or municipal housing authority, a claim for relief may not be allowed on rented lands or rented dwellings that are not subject to Montana property taxes during the claim period.

(13) A person filing a false or fraudulent claim must be charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or fraudulent claim has been paid, the amount paid, penalties, and interest may be recovered as provided in 15-1-216.

(14) The payment of renter property tax refund and administration costs related to paying property tax refunds under this section are statutorily appropriated, as provided in 17-7-502, from the general fund to the department of revenue for distribution to taxpayers and for related administration costs.

Section 6. Section 15-30-2110, MCA, is amended to read:

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

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

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability as determined under subsection (16);

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

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

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

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

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

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

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

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

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

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

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

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

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

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

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

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by

Amendment - 1st Reading-white - Requested by: Emma Kerr-Carpenter - (H) Appropriations

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section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

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

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

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

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, including a medical care savings account inherited by an immediate family member as provided in 15-61-202(6);

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

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

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

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the

child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

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

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

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

(u) the amount of the property tax rebate received under [section 2]; and

(v) the amount of the renter property tax refund credit received under [section 5].

(3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

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

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

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

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

(5) Married taxpayers filing a joint federal return who are required to include part of their social

1 security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the
2 federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad
3 retirement benefits when they file separate Montana income tax returns. The federal base must be split equally
4 on the Montana return.

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

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

15 (8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed
16 a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C.
17 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is
18 allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

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

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

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

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

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

(12) (a) An individual who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection (12)(a)

1 applies only with respect to contributions to an account for which the account owner is the taxpayer, the
2 taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident.

3 The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced
4 adjusted gross income.

5 (b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in
6 53-25-118.

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

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

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

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

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

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

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

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

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

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

1 prior tax year;

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

4 (c) to federal income tax in a prior tax year that was deducted on the state tax return in that prior
5 tax year and that reduced the taxpayer's state income tax liability in that prior tax year.

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

14

15 **Section 7.** Section 15-30-2120, MCA, is amended to read:

16 **"15-30-2120. (Effective January 1, 2024) Adjustments to federal taxable income to determine**
17 **Montana taxable income.** (1) The items in subsection (2) are added to and the items in subsection (3) are
18 subtracted from federal taxable income to determine Montana taxable income.

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

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

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

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

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

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

(f) a deduction for an income distribution from an estate or trust to a beneficiary that was included in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661;

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

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

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

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

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

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

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

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

(ii) railroad retirement benefits;

(c) (i) salary received from the armed forces by residents of Montana who are serving on active

duty in the regular armed forces and who entered into active duty from Montana;

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

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

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

(iii) the amount received pursuant to 10-1-1114 or from the federal government by a service member, as defined in 10-1-1112, as reimbursement for group life insurance premiums paid;

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

(v) all payments made under the World War I bonus law, the Korean bonus law, and the veterans' bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law, Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department in the same manner as other income tax refund claims are paid.

(d) interest and other income related to contributions that were made prior to January 1, 2024, that are retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder;

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

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

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

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

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

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

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

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

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

(n) the amount of the property tax rebate received under [section 2]; and

(o) the amount of the renter property tax refund received under [section 5].

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

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

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

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

(5) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state 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 taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced federal taxable income.

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

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

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

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

Section 8. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory

appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218; [section 2]; [section 5]; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have

1 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
2 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
3 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
4 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
5 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
6 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
7 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,
8 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;
9 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,
10 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.
11 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,
12 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-
13 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates
14 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June
15 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to
16 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,
17 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion
18 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004
19 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,
20 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and
21 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

22
23 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through ~~3~~ **5**] are intended to be
24 codified as a new part of Title 15, chapter 1, and the provisions of Title 15, chapter 1, apply to [sections 1
25 through ~~3~~ **5**].
26

27 **NEW SECTION. Section 10. Effective dates.** (1) Except as provided in subsection (2), [this act] is
28 effective on passage and approval.

Amendment - 1st Reading-white - Requested by: Emma Kerr-Carpenter - (H) Appropriations

- 2023****

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0222.002.005

1 (2) ~~[Section 5]~~ [Section 7] is effective January 1, 2024.

2

3 NEW SECTION. **Section 11. Termination.** [This act] terminates June 30, 2025.

4 - END -