

HOUSE BILL NO. 249

INTRODUCED BY K. DUDIK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING INCOME TAX BENEFITS TO EMPLOYERS THAT
5 PROVIDE STUDENT LOAN REIMBURSEMENTS TO EMPLOYEES; PROVIDING A DEDUCTION TO
6 EMPLOYERS THAT REIMBURSE EMPLOYEES FOR STUDENT LOAN PAYMENTS; PROVIDING AN
7 EXCLUSION FROM STATE ADJUSTED GROSS INCOME FOR STUDENT LOAN REIMBURSEMENTS MADE
8 BY AN EMPLOYER; EXEMPTING EMPLOYER STUDENT LOAN REIMBURSEMENTS FROM WAGES FOR
9 PURPOSES OF UNEMPLOYMENT INSURANCE AND WORKERS' COMPENSATION; AMENDING SECTIONS
10 15-30-2110 AND 39-51-201, MCA; AND PROVIDING AN APPLICABILITY DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 NEW SECTION. **Section 1. Deduction for employee student loan reimbursements.** (1) In addition
15 to all other deductions from gross corporate income allowed in computing net income under this part, an employer
16 is allowed a deduction for student loan reimbursements made to an employee as provided in this section.

17 (2) The total deduction may not exceed \$3,600.

18 (3) A deduction must be claimed in the tax year in which the student loan reimbursement is made.

19 (4) To claim a deduction under this section, the employer must require the employee to provide
20 documentation to the employer of the employee's student loan payment.

21 (5) A deduction may not be claimed for more than 10 years for a single employee.
22

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

24 **"15-30-2110. Adjusted gross income.** (1) Subject to subsection (14), adjusted gross income is the
25 taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62,
26 and in addition includes the following:

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

30 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.

1 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

2 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a
3 reduction of Montana income tax liability as determined under subsection (15);

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

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

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

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

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

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

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

19 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
20 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

21 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including
22 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

23 (c) (i) except as provided in subsection (2)(c)(ii) and subject to subsection (16), the first \$4,070 of all
24 pension and annuity income received as defined in 15-30-2101;

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

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

30 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity

- 1 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in
2 subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910
3 as shown on their joint return;
- 4 (d) all Montana income tax refunds or tax refund credits;
- 5 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);
- 6 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section
7 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January
8 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage,
9 or lodging;
- 10 (g) all benefits received under the workers' compensation laws;
- 11 (h) all health insurance premiums paid by an employer for an employee if attributed as income to the
12 employee under federal law;
- 13 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a
14 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";
- 15 (j) principal and income in a medical care savings account established in accordance with 15-61-201
16 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a
17 dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;
- 18 (k) principal and income in a first-time home buyer savings account established in accordance with
19 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase
20 of a single-family residence;
- 21 (l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition
22 program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal
23 Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of
24 a designated beneficiary;
- 25 (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the
26 recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;
- 27 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of
28 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution
29 of the same estate or trust for the same tax period;
- 30 (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch

1 risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction
2 is not provided for federal income tax purposes;

3 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant
4 to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and
5 taxpayer meet the filing requirements in 15-30-2602.

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

8 (r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero;

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

11 (t) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to
12 15-30-3104;

13 (u) student loan reimbursements made to the taxpayer pursuant to [section 1] or subsection (15) of this
14 section. A health care professional that meets the requirements of subsection (13) may exclude student loan
15 reimbursements provided for in [section 1] or subsection (15) of this section in excess of the limit provided for in
16 subsection (13)(a).

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

21 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business
22 deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and
23 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
24 salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries
25 were used to compute the credit. In the case of a partnership or small business corporation, the deduction must
26 be made to determine the amount of income or loss of the partnership or small business corporation.

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

1 Montana return.

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

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

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

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

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

26 (10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end
27 of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income
28 up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is
29 absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the
30 excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the

1 taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the
2 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted
3 gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage
4 in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting
5 or expected to last at least 12 months.

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

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

18 (12) (a) An individual who contributes to one or more accounts established under the Montana achieving
19 a better life experience program or to a qualified program established and maintained by another state as
20 provided by section 529A(e)(7) of the Internal Revenue Code, 26 U.S.C. 529A(e)(7), may reduce adjusted gross
21 income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse
22 is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions to the accounts. Spouses may
23 jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The
24 reduction in adjusted gross income under this subsection (12)(a) applies only with respect to contributions to an
25 account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild
26 if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with
27 respect to withdrawals of contributions that reduced adjusted gross income.

28 (b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in
29 53-25-118.

30 (13) (a) ~~A~~ Except as provided in subsection (2)(u), a taxpayer may exclude the amount of the loan

1 payment received pursuant to subsection (13)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross
2 income if the taxpayer:

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

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

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

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

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

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

18 (15) An employer may exclude up to \$3,600 for student loan reimbursements made to an employee. The
19 deduction must be administered as provided in [section 1].

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

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

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

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

28 ~~(16)~~(17) By November 1 of each year, the department shall multiply the amount of pension and annuity
29 income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)
30 by the inflation factor for the following tax year, rounded to the nearest \$10. The resulting amounts are effective

1 for that following tax year and must be used as the basis for the exemption determined under subsection (2)(c).
2 (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates
3 on occurrence of contingency--sec. 9, Ch. 262, L. 2001; subsection (2)(t) terminates December 31, 2023--sec.
4 33, Ch. 457, L. 2015.)"

5

6 **Section 3.** Section 39-51-201, MCA, is amended to read:

7 **"39-51-201. General definitions.** As used in this chapter, unless the context clearly requires otherwise,
8 the following definitions apply:

9 (1) "Annual payroll" means the total amount of wages paid by an employer, regardless of the time of
10 payment, for employment during a calendar year.

11 (2) "Base period" means:

12 (a) the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an
13 individual's benefit year;

14 (b) if the individual does not have sufficient wages to qualify for benefits under subsection (2)(a), the 4
15 most recently completed calendar quarters immediately preceding the first day of the individual's benefit year;

16 (c) in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of
17 labor of the United States, the period applicable under the unemployment law of the paying state; or

18 (d) for an individual who fails to meet the qualifications of 39-51-2105 or a similar statute of another state
19 because of a temporary total disability, as defined in 39-71-116, or a similar statute of another state or the United
20 States, the first 4 quarters of the last 5 completed calendar quarters preceding the disability if a claim for
21 unemployment benefits is filed within 24 months of the date on which the individual's disability was incurred.

22 (3) "Benefit year" means the 52-consecutive-week period beginning with the first day of the calendar
23 week in which an individual files a valid claim for benefits, except that the benefit year is 53 weeks if filing a new
24 valid claim would result in overlapping any quarter of the base period of a previously filed new claim. A
25 subsequent benefit year may not be established in Montana until the expiration of the current benefit year.
26 However, in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor
27 of the United States, the benefit year is the period applicable under the unemployment law of the paying state.

28 (4) "Benefits" means the money payments payable to an individual, as provided in this chapter, with
29 respect to the individual's unemployment.

30 (5) "Board" means the unemployment insurance appeals board provided for in Title 2, chapter 15, part

1 17.

2 (6) "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June
3 30, September 30, or December 31.

4 (7) "Contributions" means the money payments to the state unemployment insurance fund required by
5 this chapter but does not include assessments under 39-51-404.

6 (8) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

7 (9) (a) "Domestic or household service" means employment of persons other than members of the
8 household for the purpose of tending to the aid and comfort of the employer or members of the employer's family,
9 including but not limited to housecleaning and yard work.

10 (b) The term does not include employment beyond the scope of normal household or domestic duties,
11 such as home health care or domiciliary care.

12 (10) "Employing unit" means any individual or organization, including the state government and any of
13 its political subdivisions or instrumentalities or an Indian tribe or tribal unit, partnership, association, trust, estate,
14 joint-stock company, insurance company, limited liability company or limited liability partnership that has filed with
15 the secretary of state, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee
16 or the trustee's successor, or legal representative of a deceased person in whose employ one or more individuals
17 perform or performed services within this state, except as provided under 39-51-204(1)(a) and (1)(j). All
18 individuals performing services within this state for any employing unit that maintains two or more separate
19 establishments within this state are considered to be employed by a single employing unit for all the purposes
20 of this chapter. Each individual employed to perform or assist in performing the work of any agent or employee
21 of an employing unit is considered to be employed by the employing unit for the purposes of this chapter, whether
22 the individual was hired or paid directly by the employing unit or by the agent or employee, provided that the
23 employing unit has actual or constructive knowledge of the work.

24 (11) "Employment office" means a free public employment office or branch of an office operated by this
25 state or maintained as a part of a state-controlled system of public employment offices or other free public
26 employment offices operated and maintained by the United States government or its instrumentalities as the
27 department may approve.

28 (12) "Fund" means the unemployment insurance fund established by this chapter to which all
29 contributions and payments in lieu of contributions must be paid and from which all benefits provided under this
30 chapter must be paid.

1 (13) "Gross misconduct" means a criminal act, other than a violation of a motor vehicle traffic law, for
2 which an individual has been convicted in a criminal court or has admitted or conduct that demonstrates a flagrant
3 and wanton disregard of and for the rights, title, or interest of a fellow employee or the employer.

4 (14) "Hospital" means an institution that has been licensed, certified, or approved by the state as a
5 hospital.

6 (15) "Independent contractor" means an individual working under an independent contractor exemption
7 certificate provided for in 39-71-417.

8 (16) "Indian tribe" means an Indian tribe as defined in the Indian Self-Determination and Education
9 Assistance Act, 25 U.S.C. 450b(e).

10 (17) (a) "Institution of higher education", for the purposes of this part, means an educational institution
11 that:

12 (i) admits as regular students only individuals having a certificate of graduation from a high school or the
13 recognized equivalent of a certificate;

14 (ii) is legally authorized in this state to provide a program of education beyond high school;

15 (iii) provides an educational program for which the institution awards a bachelor's or higher degree or
16 provides a program that is acceptable for full credit toward a bachelor's or higher degree, a program of
17 postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a
18 recognized occupation; and

19 (iv) is a public or other nonprofit institution.

20 (b) All universities in this state are institutions of higher education for purposes of this part.

21 (18) "Licensed and practicing health care provider" means a health care provider who is primarily
22 responsible for the treatment of a person seeking unemployment insurance benefits and who is:

23 (a) licensed to practice in this state as:

24 (i) a physician under Title 37, chapter 3;

25 (ii) a dentist under Title 37, chapter 4;

26 (iii) an advanced practice registered nurse under Title 37, chapter 8, and recognized as a nurse
27 practitioner or certified nurse specialist by the board of nursing, established in 2-15-1734;

28 (iv) a physical therapist under Title 37, chapter 11;

29 (v) a chiropractor under Title 37, chapter 12;

30 (vi) a clinical psychologist under Title 37, chapter 17; or

- 1 (vii) a physician assistant under Title 37, chapter 20; or
- 2 (b) with respect to a person seeking unemployment insurance benefits who resides outside of this state,
- 3 a health care provider licensed or certified as a member of one of the professions listed in subsection (18)(a) in
- 4 the jurisdiction where the person seeking the benefit lives.
- 5 (19) (a) "Misconduct" includes but is not limited to the following conduct by an employee:
- 6 (i) willful or wanton disregard of the rights, title, and interests of a fellow employee or the employer,
- 7 including:
- 8 (A) insubordination showing a deliberate, willful, or purposeful refusal to follow the reasonable directions,
- 9 processes, or instructions of the employer;
- 10 (B) repeated inexcusable tardiness following warnings by the employer;
- 11 (C) dishonesty related to employment, including but not limited to deliberate falsification of company
- 12 records, theft, deliberate deception, or lying;
- 13 (D) false statements made as part of a job application process, including but not limited to deliberate
- 14 falsification of the individual's criminal history, work record, or educational or licensure achievements;
- 15 (E) repeated and inexcusable absences, including absences for which the employee was able to give
- 16 advance notice and failed to do so;
- 17 (F) deliberate acts that are illegal, provoke violence or violation of the law, or violate a collective
- 18 bargaining agreement by which the employee is covered. However, an employee who engages in lawful union
- 19 activity may not be disqualified because of misconduct under this subsection (19)(a)(i)(F).
- 20 (G) violations of a company rule if the rule is reasonable and if the claimant knew or should have known
- 21 of the existence of the rule; or
- 22 (H) actions by the claimant who, while acting within the scope of employment, commits violations of law
- 23 that significantly affect the claimant's job performance or that significantly harm the employer's ability to do
- 24 business;
- 25 (ii) deliberate violations or disregard of established employer standards or of standards of behavior that
- 26 the employer has the right to expect of an employee;
- 27 (iii) carelessness or negligence that causes or is likely to cause serious bodily harm to the employer or
- 28 a fellow employee; or
- 29 (iv) carelessness or negligence of a degree or that reoccurs to a degree to show an intentional or
- 30 substantial disregard of the employer's interest.

1 (b) The term does not include:

2 (i) inefficiency, unsatisfactory conduct, or failure to perform well as the result of inability or incapacity;

3 (ii) inadvertent or ordinary negligence in isolated instances; or

4 (iii) good faith errors in judgment or discretion.

5 (20) "No-additional-cost service" has the meaning provided in section 132 of the Internal Revenue Code,
6 26 U.S.C. 132.

7 (21) "State" includes, in addition to the states of the United States of America, the District of Columbia,
8 Puerto Rico, the Virgin Islands, and Canada.

9 (22) "Taxes" means contributions and assessments required under this chapter but does not include
10 penalties or interest for past-due or unpaid contributions or assessments.

11 (23) "Tribal unit" means an Indian tribe and any tribal subdivision or subsidiary or any business enterprise
12 that is wholly owned by that tribe.

13 (24) "Unemployment insurance administration fund" means the unemployment insurance administration
14 fund established by this chapter from which administrative expenses under this chapter must be paid.

15 (25) (a) "Wages", unless specifically exempted under subsection (25)(b), means all remuneration payable
16 for personal services, including the cash value of all remuneration paid in any medium other than cash. The
17 reasonable cash value of remuneration payable in any medium other than cash must be estimated and
18 determined pursuant to rules prescribed by the department. The term includes but is not limited to:

19 (i) commissions, bonuses, and remuneration paid for overtime work, holidays, vacations, and sickness
20 periods;

21 (ii) severance or continuation pay, backpay, and any similar pay made for or in regard to previous service
22 by the employee for the employer, other than retirement or pension benefits from a qualified plan; and

23 (iii) tips or other gratuities received by the employee, to the extent that the tips or gratuities are
24 documented by the employee to the employer for tax purposes.

25 (b) The term does not include:

26 (i) the amount of any payment made by the employer for employees, if the payment was made for:

27 (A) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal
28 Revenue Code;

29 (B) sickness or accident disability under a workers' compensation policy;

30 (C) medical or hospitalization expenses in connection with sickness or accident disability, including

1 health insurance for the employee or the employee's immediate family; or

2 (D) death, including life insurance for the employee or the employee's immediate family;

3 (ii) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, or other

4 expenses, as set forth in department rules;

5 (iii) a no-additional-cost service;

6 (iv) wage subsidies received pursuant to the alternative trade adjustment assistance for older workers

7 program, 19 U.S.C. 2318; or

8 (v) the amount paid as a salary, draw, or profit distribution to a sole proprietor, a working member of a

9 partnership, or a member of a limited liability company that is treated as a partnership or sole proprietorship

10 pursuant to 39-51-207 or to a partner in a limited partnership that has filed with the secretary of state when the

11 salary, draw, or profit distribution is paid directly by the enterprise in which the payee has an ownership interest;

12 or

13 (vi) expenses paid or incurred by an employer for student loan reimbursements to an employee as

14 provided for in 15-30-2110(15) or [section 1].

15 (26) "Week" means a period of 7 consecutive calendar days ending at midnight on Saturday.

16 (27) "Weekly benefit amount" means the amount of benefits that an individual would be entitled to receive

17 for 1 week of total unemployment."

18

19 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an

20 integral part of Title 15, chapter 31, part 1, and the provisions of Title 15, chapter 31, part 1, apply to [section 1].

21

22 **NEW SECTION. Section 5. Applicability.** [This act] applies to tax years beginning after December 31,

23 2017.

24 - END -