

SENATE BILL NO. 267

INTRODUCED BY STAPLETON, R. BROWN, BRUEGGEMAN, F. THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE TEACHER SIGNING BONUS PROGRAM TO PROVIDE 500 SIGNING BONUSES EACH YEAR TO BEGINNING TEACHERS; PROVIDING A ~~\$20,000~~ \$10,000 SIGNING BONUS, PAID OVER ~~5~~ 3 YEARS, TO 100 BEGINNING MONTANA TEACHERS WITH CERTIFICATION OR ENDORSEMENT IN MATHEMATICS, SCIENCE, OR MUSIC, A \$10,000 SIGNING BONUS, PAID OVER ~~4~~ 3 YEARS, TO 100 BEGINNING CERTIFIED MONTANA TEACHERS WHO ARE TEACHING IN RURAL AREAS IN MONTANA, AND A \$10,000 ONE-TIME SIGNING BONUS, PAID OVER ~~4~~ 3 YEARS, TO ~~OTHER~~ 300 CERTIFIED MONTANA TEACHERS WHO ARE REPLACING TEACHERS RETIRING AFTER 26 OR MORE YEARS OF TEACHING; ~~IMPOSING A \$10 APPLICATION FEE; PROVIDING FUNDING FROM EXCESS SCHOOL TRUST LAND INTEREST; ESTABLISHING A TEACHER SIGNING BONUS ACCOUNT~~ THE GENERAL FUND MADE AVAILABLE THROUGH THE UTILIZATION OF EXCESS GUARANTEE ACCOUNT FUNDS; PROVIDING ELIGIBILITY CRITERIA; PROVIDING THAT A TEACHER SIGNING BONUS IS A STATE OBLIGATION; EXEMPTING A SIGNING BONUS FROM MONTANA TAXES ~~OR CALCULATION OF SAME SALARY~~; PROVIDING DEFINITIONS; ~~AMENDING SECTION~~ SECTIONS 15-30-111 ~~AND 20-9-342~~ 20-9-622, MCA; AND PROVIDING AN EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

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

NEW SECTION. Section 1. Teacher signing bonus program -- eligibility criteria -- distribution of bonus -- state obligation -- definitions. (1) There is a teacher signing bonus program administered by the superintendent of public instruction, which will provide a maximum of 500 beginning teachers each fiscal year with a one-time teacher signing bonus.

(2) A one-time signing bonus of ~~\$20,000~~ \$10,000 must be paid to 100 beginning teachers, each of whom is:

(a) a full-time classroom teacher or other full-time specialist who is certified to teach mathematics, science, or music under the provisions of 20-4-103; ~~and~~

(b) employed by:

(i) a Montana public elementary or high school district, as defined in 20-6-101;

(ii) a K-12 school district, as defined in 20-6-701;

- (iii) an education cooperative, as described in 20-7-451;
- (iv) the Montana school for the deaf and blind, as described in 20-8-101; or
- (v) a state youth correctional facility, as defined in 41-5-103; AND

(C) EMPLOYED TO TEACH IN THE AREA IN WHICH THE TEACHER IS CERTIFIED.

(3) Of the remaining 400 available bonuses, 100 one-time bonuses of \$10,000 must be paid to each beginning teacher who is teaching in a rural area of Montana and who is:

(a) a full-time classroom teacher or other full-time specialist who is certified under the provisions of 20-4-103; and

(b) employed by:

- (i) a Montana public elementary or high school district, as defined in 20-6-101;
- (ii) a K-12 school district, as defined in 20-6-701;
- (iii) an education cooperative, as described in 20-7-451;
- (iv) the Montana school for the deaf and blind, as described in 20-8-101; or
- (v) a state youth correctional facility, as defined in 41-5-103.

(4) The remaining 300 one-time signing bonuses of \$10,000 must be paid to each beginning teacher who is:

(a) a full-time classroom teacher or other full-time specialist who is certified under the provisions of 20-4-103; ~~and~~

(b) employed by:

- (i) a Montana public elementary or high school district, as defined in 20-6-101;
- (ii) a K-12 school district, as defined in 20-6-701;
- (iii) an education cooperative, as described in 20-7-451;
- (iv) the Montana school for the deaf and blind, as described in 20-8-101; or
- (v) a state youth correctional facility, as defined in 41-5-103; and

(c) replacing a teacher who is retiring after a minimum of 26 years in the teaching profession.

(5) The signing bonuses provided in ~~subsection (2)~~ THIS SECTION must be distributed as follows:

(a) ~~\$6,000~~ \$5,000 in the first year of employment; ~~and~~

(b) ~~\$3,500 in each of the second through fifth years~~ \$3,000 IN THE SECOND YEAR of employment; AND

(c) \$2,000 IN THE THIRD YEAR OF EMPLOYMENT.

~~———— (6) The signing bonuses provided in subsections (3) and (4) must be distributed as follows:~~

~~———— (a) \$4,000 in the first year of employment; and~~

~~_____ (b) \$2,000 in each of the second through fourth years of employment.~~

~~(7)(6)~~ The bonus payments authorized in subsections (2) through (4) must be paid in two equal installments each year. A teacher is not eligible for the first installment until the teacher has been employed by an educational entity listed in subsection (2)(b), (3)(b), or (4)(b) for at least 90 days ~~AND HAS PAID A \$10 APPLICATION FEE.~~

~~(8)(7) (A)~~ In order to receive the final one-half of the annual signing bonus payment, a teacher must remain employed with the same teaching assignment or with another eligible teaching assignment within the same school district.

~~(B)~~ A teacher who receives the first annual installment of a bonus payment pursuant to this section, but who is terminated from a teaching position, who leaves the teaching profession, or who is employed by a different school district or a school district outside of Montana before completing the full school fiscal year is not entitled to the second bonus payment.

~~(C) REASSIGNMENT OF A TEACHER TO ANOTHER TEACHING POSITION WITHIN THE DISTRICT THAT IS INELIGIBLE FOR A BONUS PAYMENT DOES NOT MAKE THE TEACHER INELIGIBLE FOR THE REMAINDER OF THE BONUS PAYMENT.~~

~~(9)(8) (A)~~ By April 15, a school district that employs a teacher who is eligible for a signing bonus under subsections (2) through (4) shall submit a request to the superintendent of public instruction for the signing bonus payment on a form prescribed by the superintendent. The form must include:

~~(a)(i)(A)~~ the names and addresses of those teachers qualifying for a signing bonus; and

~~(b)(ii)(B)~~ for those qualifying for a signing bonus under subsection (4), the names of those teachers who are retiring.

~~(B) THE FORM MUST BE ACCOMPANIED BY THE APPLICATION FEE FOR EACH ELIGIBLE TEACHER AS PROVIDED IN SUBSECTION (6):~~

~~(10)(9)~~ Upon receipt of the form from the district, the superintendent of public instruction shall ~~DEPOSIT THE APPLICATION FEE IN THE GENERAL FUND TEACHER SIGNING BONUS ACCOUNT ESTABLISHED IN [SECTION 2] AND~~ distribute to each qualifying teacher a signing bonus payment from an appropriation from the general fund.

~~(11)(10)~~ The signing bonus payment authorized under this section is exempt from taxation under 15-30-111(2). The employer shall deduct the employer and employee share of any federal taxes and ~~retirement contributions~~ THE EMPLOYER'S CONTRIBUTION FOR UNEMPLOYMENT INSURANCE from the signing bonus prior to payment to the employee.

~~(12)~~ The signing bonus may not be included in the calculation of same salary, as defined in 20-4-203, but must be included in the calculation of average final compensation for purposes of determining a retirement

allowance under 19-20-802 or 19-20-804. The school district is not liable for any additional contributions to the teachers' retirement system as a result of the inclusion of the signing bonus payment in the calculation of average final compensation:

~~(13)~~(11) The funding of a signing bonus is an obligation of the state. This section may not be construed to require a district THE SUPERINTENDENT OF PUBLIC INSTRUCTION to provide a signing bonus to a qualifying teacher without a payment from the state to the district. If the appropriation for funding teacher signing bonuses is less than the total amount for which Montana teachers qualify, the superintendent of public instruction shall prorate the payment to the districts in a manner that provides the same amount to each qualifying teacher.

~~(12) ANY APPROPRIATION MADE BY THE LEGISLATURE FOR THE SIGNING BONUS MUST BE MADE FROM THE TEACHER SIGNING BONUS ACCOUNT ESTABLISHED IN [SECTION 2]~~ FUNDING FOR TEACHER SIGNING BONUSES IN EACH YEAR IS LIMITED TO THE AMOUNT BY WHICH THE GENERAL FUND OBLIGATION FOR SCHOOL EQUALIZATION AID IS REDUCED THROUGH THE MECHANISM IN [SECTION 3] FOR THAT YEAR.

~~(14)~~(12)(13) As used in this section, the following definitions apply:

(a) (i) "Beginning teacher" means a person who is certified and is employed as a teacher or specialist for the first time in the person's career. THE TERM INCLUDES A PERSON WHO IS ASSIGNED SOME DUTIES AS A SUPERVISING TEACHER.

(ii) The term does not include an administrator or supervisor.

(b) "Rural area" means:

~~—— (i) a Montana county that lost resident population between 1990 and 2000 as determined by the 2000 decennial census; or~~

~~—— (ii) a Montana county that gained less than the 12.91% state average change in population between 1990 and 2000 as determined by the 2000 decennial census~~ THE FOLLOWING LOCALE CODES DEVELOPED BY THE U.S. BUREAU OF THE CENSUS:

(I) LOCALE CODE 4, EXCEPT FOR A SCHOOL DISTRICT WITH MORE THAN 500 STUDENTS ASSIGNED TO THIS LOCALE CODE;

(II) LOCALE CODE 7; AND

(III) LOCALE CODE 8.

~~—— NEW SECTION. SECTION 2. TEACHER SIGNING BONUS ACCOUNT ESTABLISHED. (1) THERE IS AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND FOR STATE FUNDING OF TEACHER SIGNING BONUSES:~~

~~—— (2) MONEY COLLECTED PURSUANT TO [SECTION 4] MUST BE DEPOSITED IN THIS ACCOUNT.~~

Section 2. Section 15-30-111, MCA, is amended to read:

"15-30-111. (Temporary) Adjusted gross income. (1) Adjusted gross income is the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954, 26 U.S.C. 62, as that section may be labeled or amended, 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 of 1986, 26 U.S.C. 852(b)(5), as that section may be amended or renumbered, 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;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code of 1954 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(15);

(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; and

(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.

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or amended, 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, a county, municipality, or 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 of 1986, 26 U.S.C. 852(b)(5), as that section may be amended or renumbered, 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), the first \$3,600 of all pension and annuity income received as defined in 15-30-101;

(ii) 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 \$30,000 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 \$30,000 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 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 persons for services rendered by them 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, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(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 withdrawn from a family education savings account or earnings withdrawn from a family education savings account for qualified higher 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 15-30-603, deposited in a Montana farm and ranch risk management account, as provided in 15-30-601 through 15-30-605, in any tax year for which a deduction is not provided for federal income tax purposes; ~~and~~

(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 15-30-142; and

(q) a teacher signing bonus payment provided for in [section 1].

(3) A shareholder of a DISC that is exempt from the corporation license 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 taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions 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 of 1954, as those sections may be labeled or amended, is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction 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 security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) 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 and before application

of the two-earner married couple deduction 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.

(7) Married taxpayers who file a joint federal return and who make an election on the federal return to defer income ratably for 4 tax years because of a conversion from an IRA other than a Roth IRA to a Roth IRA, pursuant to section 408A(d)(3) of the Internal Revenue Code, 26 U.S.C. 408A(d)(3), may file separate Montana income tax returns to defer the full taxable conversion amount from Montana adjusted gross income for the same time period. The deferred amount must be attributed to the taxpayer making the conversion.

(8) An individual who contributes to one or more accounts established under the Montana family education savings program 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, as defined in 15-62-103, 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. (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)

15-30-111. (Effective on occurrence of contingency) Adjusted gross income. (1) Adjusted gross income is the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954, 26 U.S.C. 62, as that section may be labeled or amended, 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 of 1986, 26 U.S.C. 852(b)(5), as that section may be amended or renumbered, 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;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code of 1954 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(15);

(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; and

(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.

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or amended, 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, a county, municipality, or 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 of 1986, 26 U.S.C. 852(b)(5), as that section may be amended or renumbered, 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), the first \$3,600 of all pension and annuity income received as defined in 15-30-101;

(ii) 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 \$30,000 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 \$30,000 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 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 persons for services rendered by them 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, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;
- (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 withdrawn from a family education savings account or earnings withdrawn from a family education savings account for qualified higher 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 15-30-603, deposited in a Montana farm and ranch risk management account, as provided in 15-30-601 through 15-30-605, 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 15-30-142.
- (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-; and

(r) a teacher signing bonus provided for in [section 1].

(3) A shareholder of a DISC that is exempt from the corporation license 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 taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions 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 of 1954, as those sections may be labeled or amended, is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction 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 security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) 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 and before application of the two-earner married couple deduction 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.

(7) Married taxpayers who file a joint federal return and who make an election on the federal return to defer income ratably for 4 tax years because of a conversion from an IRA other than a Roth IRA to a Roth IRA, pursuant to section 408A(d)(3) of the Internal Revenue Code, 26 U.S.C. 408A(d)(3), may file separate Montana

income tax returns to defer the full taxable conversion amount from Montana adjusted gross income for the same time period. The deferred amount must be attributed to the taxpayer making the conversion.

(8) An individual who contributes to one or more accounts established under the Montana family education savings program 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, as defined in 15-62-103, 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. (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

~~SECTION 4. SECTION 20-9-342, MCA, IS AMENDED TO READ:~~

~~"20-9-342. Deposit of interest and income money by state board of land commissioners. (1) The Except as provided in subsection (2), the state board of land commissioners shall annually deposit the interest and income money for each calendar year into the guarantee account, provided for in 20-9-622, for state equalization aid by the last business day of February following the calendar year in which the money was received.~~

~~(2) Any interest and income money, as defined in 20-9-341, that is in excess of \$45,292,000, up to \$6,642,138, must be deposited in the teacher signing bonus account established in [section 2]."~~

SECTION 3. SECTION 20-9-622, MCA, IS AMENDED TO READ:

"20-9-622. Guarantee account. (1) There is a guarantee account in a subfund of the state special revenue fund. The guarantee account is intended to:

- (a) stabilize the long-term growth of the permanent fund; and
- (b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in subsections (2) and (3), the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of

2001, is outstanding, the department of natural resources and conservation shall annually transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is outstanding in the prior year.

(3) The revenue distributed through 20-9-534 must be used for the purposes of 20-9-533.

(4) (a) Any revenue available for BASE aid in the guarantee account in excess of \$50,432,513 in fiscal year 2003, up to \$2.5 million, must be used to reduce the fiscal year 2004 general fund obligations for school equalization aid by a like amount.

(b) Any revenue available for BASE aid in the guarantee account in excess of \$45,499,713 in fiscal year 2004, up to \$4 million, must be used to reduce the fiscal year 2005 general fund obligations for school equalization aid by a like amount.

(c) Any revenue available for BASE aid in the guarantee account in excess of \$45,485,803 in fiscal year 2005, up to \$5 million, must be used to reduce the fiscal year 2006 general fund obligations for school equalization aid by a like amount.

(d) Any revenue available for BASE aid in the guarantee account in fiscal year 2006 in excess of the amount indicated in the general appropriations act for that year, up to \$5 million, must be used to reduce the fiscal year 2007 general fund obligations for school equalization aid by a like amount.

(e) The general fund money made available pursuant to subsections (4)(a), (4)(b), (4)(c), and (4)(d) for the purposes of [section 1] is appropriated in the general appropriations act."

NEW SECTION. Section 4. Codification instruction. [~~Section 1~~] is [~~SECTIONS 1 AND 2~~] ARE [~~SECTION 1~~] IS intended to be codified as an integral part of Title 20, chapter 4, and the provisions of Title 20, chapter 4, apply to [~~section 1~~] [~~SECTIONS 1 AND 2~~] [~~SECTION 1~~].

NEW SECTION. Section 5. Effective date -- applicability. [This act] is effective on passage and approval and applies to the school fiscal years beginning on or after July 1, 2003.

NEW SECTION. Section 6. Termination. [This act] terminates June 30, 2007.

- END -

