

Amendment - 1st Reading/2nd House-blue - Requested by: Ryan Lynch - (S) Finance and Claims

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0192.002.004

1 HOUSE BILL NO. 192
2 INTRODUCED BY B. MERCER, S. FITZPATRICK, G. HERTZ, M. REGIER, D. BARTEL, S. VINTON, J.
3 ELLSWORTH, R. KNUDSEN, K. BOGNER
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DISTRIBUTION OF SURPLUS REVENUE;
6 ~~USING DISTRIBUTING SURPLUS REVENUE TO MONTANANS BASED ON CERTAIN INDIVIDUAL INCOME~~
7 ~~LIABILITY FOR INDIVIDUAL INCOME TAX SURPLUS REBATES, PROPERTY TAX REFUNDS, AND TO~~
8 ~~OFFSET GENERAL OBLIGATION BOND PAYMENTS; PROVIDING RESIDENT TAXPAYERS INDIVIDUAL~~
9 ~~INCOME TAX SURPLUS REBATES FOR INDIVIDUAL INCOME TAXES PAID; PROVIDING FOR PROPERTY~~
10 ~~TAX REFUNDS FOR PRIMARY RESIDENCES; PROVIDING AN APPROPRIATION; PROVIDING A~~
11 ~~STATUTORY APPROPRIATION; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-30-2110, 15-30-~~
12 ~~2420, AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION~~
13 ~~DATE."~~

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16

17 NEW SECTION. Section 1. Montana tax SURPLUS rebate account. (1) There is a Montana tax
18 SURPLUS rebate account in the state special revenue fund PROVIDED FOR IN 17-2-102.

19 (2) The state treasurer shall transfer ~~\$900~~ \$480 million FROM THE GENERAL FUND to the account by
20 July 1, 2023.

21 (3) Money in the account must be used ~~as follows:~~

22 ~~(a) \$650 million, less administrative costs, for individual income tax rebates provided for in [section~~
23 ~~2] AND ASSOCIATED ADMINISTRATIVE COSTS; and~~

24 ~~(b) \$250 million, less administrative costs, for residential property tax refunds provided for in~~
25 ~~[sections 3 through 5].~~

26 (4) The ~~amounts~~ AMOUNT provided for in subsection (3) ~~are~~ IS statutorily appropriated, as provided
27 in 17-7-502, to the department of revenue.

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1 (5) The state treasurer shall transfer to the general fund money remaining in the account after
2 June 30, 2025.

3

4 NEW SECTION. Section 2. Individual income tax rebate. (1) By December 31, 2023, the
5 department of revenue shall issue, to a qualified taxpayer who incurred individual income tax liability in
6 Montana in 2021, a one-time income tax rebate in an amount equal to the lesser of:

7 (a) the qualified taxpayer's 2021 individual income tax liability as properly reported on line 20 of the
8 2021 Montana individual income tax return; or

9 (b) an amount based on the taxpayer's 2021 filing status, equal to:

10 (i) for a single taxpayer, A HEAD OF HOUSEHOLD, or a married taxpayer filing a separate return,
11 \$1,250; or

12 (ii) for a married couple filing a joint return, \$2,500.

13 (2) The department may not issue a rebate pursuant to this section that exceeds the taxpayer's
14 individual income tax liability as properly reported on line 20 of the 2021 Montana individual income tax return.

15 (3) (a) Except as provided in subsection (3)(b), the department shall issue rebates provided for in
16 this section electronically or by mailing a check to the taxpayer's mailing address based on the taxpayer's
17 refund instructions.

18 (b) A rebate provided for in this section must first be credited against any outstanding liability for
19 which the department withholds a tax refund existing at the time the refund is issued.

20 (4) As provided in 15-30-2110(2)(u), a rebate provided for in this section is not taxable income.

21 (5) (a) As used in this section, the term "qualified taxpayer" means an individual who was a
22 resident as defined in 15-30-2101 for the entire income tax year beginning January 1, 2021, and who filed a
23 Montana individual income tax return for income tax years 2020 and 2021 by the due date for filing the return
24 for income tax year 2021, including any extensions that have been granted.

25 (b) The term does not include:

26 (i) a taxpayer who is a nonresident, as defined in 15-30-2101, who filed tax returns in 2020 or
27 2021 pursuant to 15-30-2104;

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1 (ii) an individual who was claimed as a dependent by another taxpayer for federal or Montana
2 income tax purposes for the 2021 tax year; or

3 (iii) a trust.
4

5 NEW SECTION. Section 3. — Property tax refund -- definitions. As used in [sections 3 through 5],
6 the following definitions apply:

7 (1) — "Owned" means the taxpayer is the person or entity whose ownership of the real property at
8 issue is reflected in a county's real property records for 2022.

9 (2) — "Primary residence" means a single-family dwelling unit, unit of a multiple - unit dwelling, trailer,
10 manufactured home, or mobile home subject to Montana property taxes and as much of the surrounding land,
11 not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that was owned and occupied by
12 the taxpayer for at least 7 months of the year for which a refund is claimed.

13 (3) — (a) "Property tax" means taxes levied against a primary residence, including special
14 assessments and fees.

15 (b) — The term does not include penalties or interest.
16

17 NEW SECTION. Section 4. — Property tax refund -- manner of claiming -- limitations. (1)(a) A
18 taxpayer may claim a refund of up to \$1,000 for property taxes paid in 2021 and 2022 as provided in this
19 section.

20 (b) — A taxpayer who paid property taxes of \$1,000 or more in 2022 may claim a refund of \$1,000.

21 (c) — A taxpayer who paid property taxes of more than \$0 and less than \$1,000 in 2022 may claim a
22 total refund of up to \$1,000 for property taxes paid in 2021 and 2022.

23 (2) — (a) Subject to subsection (2)(b), the claim for a refund must:

24 (i) — be in the form that the department prescribes;

25 (ii) — be executed by each taxpayer under penalty of false swearing; and

26 (iii) — include the information that the department requires, including but not limited to information to
27 demonstrate that the taxpayer is entitled to the rebate provided for in this section.

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1 ~~(b) — The personal representative of the estate of a deceased taxpayer may execute and file the~~
2 ~~claim for a refund on behalf of a deceased taxpayer who qualifies for the refund.~~

3 ~~(3) — The claim for a refund is subject to the following limitations:~~

4 ~~(a) — The claim must be filed with the department on or before June 1, 2024, unless the department,~~
5 ~~for good cause shown, grants a reasonable extension of time for filing.~~

6 ~~(b) — Unless there was a change in ownership in 2021 or 2022, only one claim may be made with~~
7 ~~respect to any primary residence.~~

8 ~~(c) — Except as provided in subsection (3)(d), a claim under subsection (1)(c) must be for the same~~
9 ~~property.~~

10 ~~(d) — A taxpayer who owned and occupied more than one Montana residence as a primary~~
11 ~~residence in 2022 for a time period that totaled 7 months or more is eligible for the rebate.~~

12 ~~(4) — As provided in 15-30-2110(2)(v) and 15-30-2120(3)(n), a rebate provided for in this section is~~
13 ~~not taxable income.~~

14
15 ~~**NEW SECTION. Section 5. — Property tax refund -- penalty for false or fraudulent claim.** A person~~
16 ~~who files a false or fraudulent claim for a property tax refund provided for in [sections 3 through 5] is subject to~~
17 ~~criminal prosecution under the provisions of 45-7-202. If a false or fraudulent claim has been paid, the refund~~
18 ~~paid must be recovered as any other tax owed the state, together with a penalty of 25% of the refund and~~
19 ~~interest on the amount of the refund at the rate of 12% a year, until paid.~~

20
21 ~~**Section 3.** Section 15-30-2110, MCA, is amended to read:~~

22 ~~**"15-30-2110. (Temporary) Adjusted gross income.** (1) Subject to subsection (15), adjusted gross~~
23 ~~income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code,~~
24 ~~26 U.S.C. 62, and in addition includes the following:~~

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

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- 1 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26
2 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);
- 3 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a
4 reduction of Montana income tax liability as determined under subsection (16);
- 5 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal
6 Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the
7 income;
- 8 (d) depreciation or amortization taken on a title plant as defined in 33-25-105;
- 9 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that
10 the amount recovered reduced the taxpayer's Montana income tax in the year deducted;
- 11 (f) if the state taxable distribution of an estate or trust is greater than the federal taxable
12 distribution of the same estate or trust, the difference between the state taxable distribution and the federal
13 taxable distribution of the same estate or trust for the same tax period; and
- 14 (g) except for exempt-interest dividends described in subsection (2)(a)(ii), the amount of any
15 dividend to the extent that the dividend is not included in federal adjusted gross income.
- 16 (2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not
17 include the following, which are exempt from taxation under this chapter:
- 18 (a) (i) all interest income from obligations of the United States government, the state of Montana,
19 or a county, municipality, district, or other political subdivision of the state and any other interest income that is
20 exempt from taxation by Montana under federal law;
- 21 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26
22 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);
- 23 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and
24 including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;
- 25 (c) (i) except as provided in subsection (2)(c)(ii) and subject to subsection (17), the first \$4,070 of
26 all pension and annuity income received as defined in 15-30-2101;
- 27 (ii) subject to subsection (17), for pension and annuity income described under subsection (2)(c)(i),

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1 as follows:

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

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

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

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

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

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

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

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

20 (j) principal and income in a medical care savings account established in accordance with 15-61-
21 201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, including a medical
22 care savings account inherited by an immediate family member as provided in 15-61-202(6);

23 (k) principal and income in a first-time home buyer savings account established in accordance with
24 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time
25 purchase of a single-family residence;

26 (l) contributions or earnings withdrawn from an account established under the Montana family
27 education savings program, Title 15, chapter 62, or from a qualified tuition program established and maintained

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- 1 by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C.
- 2 529(b)(1)(A)(ii), for qualified education expenses, as defined in 15-62-103, of a designated beneficiary;
- 3 (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that
- 4 the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;
- 5 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable
- 6 distribution of the same estate or trust, the difference between the federal taxable distribution and the state
- 7 taxable distribution of the same estate or trust for the same tax period;
- 8 (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and
- 9 ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a
- 10 deduction is not provided for federal income tax purposes;
- 11 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income
- 12 pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the
- 13 child and taxpayer meet the filing requirements in 15-30-2602.
- 14 (q) principal and income deposited in a health care expense trust account, as defined in 2-18-
- 15 1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;
- 16 (r) the amount of the gain recognized from the sale or exchange of a mobile home park as
- 17 provided in 15-31-163;
- 18 (s) the amount of a scholarship to an eligible student by a student scholarship organization
- 19 pursuant to 15-30-3104; ~~and~~
- 20 (t) a payment received by a private landowner for providing public access to public land pursuant
- 21 to Title 76, chapter 17, part 1; AND
- 22 ~~(u) an income tax rebate issued pursuant to [section 2]; and~~
- 23 ~~(v) a property tax refund issued pursuant to [section 4].~~
- 24 (3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l)
- 25 shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same
- 26 manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the
- 27 DISC election is effective.

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

3 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections
4 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
5 wages and salaries paid regardless of the credit taken; or

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

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

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

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

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

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1 (8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed
2 a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C.
3 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is
4 allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

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

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

15 (10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the
16 end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross
17 income up to \$100 a week received as wages or payments in lieu of wages for a period during which the
18 employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds
19 \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion,
20 but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion
21 separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their
22 combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means
23 unable to engage in any substantial gainful activity by reason of any medically determined physical or mental
24 impairment lasting or expected to last at least 12 months.

25 (11) (a) An individual who contributes to one or more accounts established under the Montana
26 family education savings program or to a qualified tuition program established and maintained by another state
27 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

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1 adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married
2 taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the
3 accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made
4 by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to
5 contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's
6 child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e)
7 do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

8 (b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in
9 15-62-208.

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

20 (b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in
21 53-25-118.

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

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

25 (ii) is serving a significant portion of a designated geographic area, special population, or facility
26 population in a federally designated health professional shortage area, a medically underserved area or
27 population, or a federal nursing shortage county as determined by the secretary of health and human services

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1 or by the governor;

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

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

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

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

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

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

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

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

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

22 (17) By November 1 of each year, the department shall multiply the amount of pension and annuity
23 income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)
24 by the inflation factor for the following tax year, rounded to the nearest \$10. The resulting amounts are effective
25 for that following tax year and must be used as the basis for the exemption determined under subsection (2)(c).
26 (Repealed effective January 1, 2024--secs. 65, 70(1), Ch. 503, L. 2021; subsection (2)(f) terminates on
27 occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of

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1 contingency--sec. 9, Ch. 262, L. 2001; subsection (2)(t) terminates June 30, 2027--sec. 10, Ch. 374, L. 2017;
2 subsection (2)(s) terminates December 31, 2029--sec. 20, Ch. 480, L. 2021.)"

3

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

5 ~~"15-30-2120. (Effective January 1, 2024) Adjustments to federal taxable income to determine~~

6 ~~Montana taxable income. (1) The items in subsection (2) are added to and the items in subsection (3) are~~
7 ~~subtracted from federal taxable income to determine Montana taxable income.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (ii) ~~railroad retirement benefits;~~

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

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

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

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

27 (iii) ~~the amount received pursuant to 10-1-1114 or from the federal government by a service~~

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1 ~~member, as defined in 10-1-1112, as reimbursement for group life insurance premiums paid;~~

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

3 ~~(v) — all payments made under the World War I bonus law, the Korean bonus law, and the veterans'~~

4 ~~bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law,~~

5 ~~Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the~~

6 ~~filing of an amended return and a verified claim for refund on forms prescribed by the department in the same~~

7 ~~manner as other income tax refund claims are paid.~~

8 ~~(d) — interest and other income related to contributions that were made prior to January 1, 2024, that~~

9 ~~are retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for~~

10 ~~payment of eligible medical expenses or for the long-term care of the employee or account holder or a~~

11 ~~dependent of the employee or account holder;~~

12 ~~(e) — contributions or earnings withdrawn from a family education savings account provided for in~~

13 ~~Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as~~

14 ~~provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified~~

15 ~~education expenses, as defined in 15-62-103, of a designated beneficiary;~~

16 ~~(f) — interest and other income related to contributions that were made prior to January 1, 2024, that~~

17 ~~are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal~~

18 ~~for payment of eligible costs for the first-time purchase of a single-family residence;~~

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

20 ~~(h) — the amount of a scholarship to an eligible student by a student scholarship organization~~

21 ~~pursuant to 15-30-3104;~~

22 ~~(i) — a payment received by a private landowner for providing public access to public land pursuant~~

23 ~~to Title 76, chapter 17, part 1;~~

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

25 ~~any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not~~

26 ~~previously allowed as a deduction for Montana income tax purposes;~~

27 ~~(k) — the recovery during the tax year of any amount deducted in any prior tax year to the extent that~~

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1 ~~the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;~~

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

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

7 ~~(n) — a property tax refund issued pursuant to [section 4].~~

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

10 ~~(i) — by an amount for wages and salaries for which a federal tax credit was elected under sections~~
11 ~~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~~
12 ~~wages and salaries paid regardless of the credit taken; or~~

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

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

20 ~~(5) — (a) An individual who contributes to one or more accounts established under the Montana~~
21 ~~family education savings program or to a qualified tuition program established and maintained by another state~~
22 ~~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~~
23 ~~taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each~~
24 ~~spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts.~~
25 ~~Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each~~
26 ~~spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions~~
27 ~~to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or~~

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1 ~~stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not~~
2 ~~apply with respect to withdrawals of contributions that reduced federal taxable income.~~

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

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

14 (b) ~~Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in~~
15 ~~53-25-118.~~

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

21 **Section 4.** Section 17-7-502, MCA, is amended to read:

22 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
23 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
24 the need for a biennial legislative appropriation or budget amendment.

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

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

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

3 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
4 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-
5 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; [section 1]; 15-1-121;
6 15-1-218; 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-
7 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-
8 215; 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-
9 305; 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-
10 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-
11 402; 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;
12 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;
13 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-
14 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;
15 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-
16 102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

17 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
18 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
19 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
20 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
21 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
22 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
23 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
24 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
25 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
26 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
27 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117

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1 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,
2 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;
3 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,
4 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.
5 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,
6 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-
7 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates
8 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June
9 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to
10 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,
11 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion
12 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004
13 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,
14 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and
15 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

16

17

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~~NEW SECTION. Section 9. — Appropriation. There is appropriated \$100 million from the general fund to the board of examiners for the fiscal year ending June 30, 2023, to pay down indebtedness incurred pursuant to Title 17, chapter 5, part 8.~~

21

22

~~NEW SECTION. Section 5. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [section 1].~~

23

24

~~(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 2].~~

25

26

~~(3) [Sections 3 through 5] are intended to be codified as an integral part of Title 15, chapter 6, and the provisions of Title 15, chapter 6, apply to [sections 3 through 5].~~

27

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1 NEW SECTION. **Section 6. Severability.** (1) If a part of [this act] is invalid, all valid parts that are
2 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
3 the part remains in effect in all valid applications that are severable from the invalid applications.

4 (2) ~~— If [this act] is invalid under the single-subject provision of Article V, section 11(3), of the~~
5 ~~Montana constitution, [section 9 of this act] is invalid if the remaining parts are severable and remain in effect.~~

7 ~~COORDINATION SECTION. SECTION 7. COORDINATION INSTRUCTION. (1) IF [THIS ACT] IS PASSED AND~~
8 ~~APPROVED AND DOES NOT CONTAIN A \$480 MILLION TRANSFER FROM THE GENERAL FUND, AND IF ANY OF THE FIVE BILLS~~
9 ~~IDENTIFIED IN SUBSECTION (2) ARE NOT PASSED AND APPROVED, THEN THE AMOUNT OF THE TRANSFER PROVIDED FROM~~
10 ~~THE GENERAL FUND IN [SECTION 1] IS \$240 MILLION.~~

11 ~~(2) THE FIVE BILLS ARE:~~

12 ~~(A) HOUSE BILL NO. 212;~~

13 ~~(B) HOUSE BILL NO. 221;~~

14 ~~(C) HOUSE BILL NO. 222;~~

15 ~~(D) HOUSE BILL NO. 251; AND~~

16 ~~(E) HOUSE BILL NO. 267.~~

18 NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

20 NEW SECTION. **Section 8. Termination.** [This act] terminates December 31, 2025.

21 - END -