

1 HOUSE BILL NO. 816
2 INTRODUCED BY J. KASSMIER, S. FITZPATRICK
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DISTRIBUTION OF SURPLUS
5 REVENUE; PROVIDING FOR A SUPPLEMENTAL FUND TRANSFER FOR THE INCOME TAX REBATE
6 THAT IS BASED ON INDIVIDUAL INCOME TAXES PAID; PROVIDING FOR A REVISING THE
7 SUPPLEMENTAL PROPERTY TAX REBATE; PROVIDING AN A STATUTORY APPROPRIATION;
8 AMENDING SECTION 17-7-502, MCA; AMENDING SECTION 2, CHAPTER 44, LAWS OF 2023, AND
9 SECTION 1, CHAPTER 47, LAWS OF 2023; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
10 TERMINATION DATE."

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

13
14 NEW SECTION. Section 1. Individual income tax rebate -- supplemental Montana surplus
15 rebate account fund transfer. (1) ~~A qualified taxpayer that is entitled to an individual income tax rebate~~
16 ~~pursuant to [section 2 of House Bill No. 192] may increase the amount of the filing status limits in [section~~
17 ~~2(1)(b) of House Bill No. 192] by the bonus amounts provided in subsection (2). In administering the income tax~~
18 ~~rebate, the department shall add the bonus to the filing status limits and update any rebate forms to reflect the~~
19 ~~additional amount.~~

20 ~~(2) — (a) Subject to subsection (2)(c), the amount of the bonus for a single taxpayer, a head of~~
21 ~~household, or a married taxpayer filing a separate return is the quotient of the appropriation in [section 3]~~
22 ~~divided by 350,000.~~

23 ~~(b) — Subject to subsection (2)(c), the amount of the bonus for a married couple filing a joint return is~~
24 ~~double the amount provided for in subsection (2)(a).~~

25 ~~(c) — The department shall round the quotients provided for in subsections (2)(a) and (2)(b)~~
26 ~~downward to the nearest \$1.~~

27 ~~(3) — The bonus provided for in this section is administered as part of the individual income tax~~

Amendment - 1st Reading/2nd House-blue - Requested by: Greg Hertz - (S) Local Government

- 2023
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

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1 ~~rebate provided for in [House Bill No. 192]. Any income tax rebate received that is based on this section is~~
2 ~~exempt from taxation under this chapter. The state treasurer shall transfer \$35 million from the general fund to~~
3 ~~the Montana surplus rebate account in the state special revenue fund created by [section 1 of House Bill No.~~
4 ~~192], and provided for in 17-2-102, by July 1, 2023. This transfer supplements the transfer provided for in~~
5 ~~[section 1 of House Bill No. 192] and must be used in accordance with Chapter 44, Laws of 2023.~~

6 ~~(2) The supplemental amount provided for in subsection (1) is statutorily appropriated, as provided~~
7 ~~in 17-7-502, to the department of revenue.~~

8
9 **NEW SECTION. Section 2.—Property tax rebate.** (1) ~~A taxpayer that is entitled to a rebate of~~
10 ~~Montana property taxes paid pursuant to [sections 1 through 3 of House Bill No. 222] may increase the dollar~~
11 ~~amount limits of the rebates in [section 2(1)(a) and (1)(b) of House Bill No. 222] by the bonus amounts provided~~
12 ~~in subsection (2). In administering the rebate, the department shall add the bonus to the dollar amount~~
13 ~~limitations for tax year 2022 and tax year 2023 and update any rebate forms to reflect the additional amount.~~

14 ~~(2) (a) Subject to subsection (2)(d), the amount of the bonus for tax year 2022 is half of the amount~~
15 ~~provided for in subsection (2)(c).~~

16 ~~(b) Subject to subsection (2)(c), the amount of the bonus for tax year 2023 is half of the amount~~
17 ~~provided for in subsection (2)(c).~~

18 ~~(c) The preliminary bonus amount is the quotient of the appropriation in [section 4] divided by~~
19 ~~284,343.~~

20 ~~(d) The department shall round the quotients provided for in subsections (2)(a) and (2)(b)~~
21 ~~downward to the nearest \$1.~~

22 ~~(3) The bonus provided for in this section is administered as part of the property tax rebate~~
23 ~~provided for in [House Bill No. 222]. Any property tax rebate received that is based on this section is exempt~~
24 ~~from taxation under this chapter.~~

25

26 **Section 2.** Section 17-7-502, MCA, is amended to read:

27 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory

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

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

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

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

8 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
9 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-
10 807; 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;
11 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-
12 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-
13 215; 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-
14 305; 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-
15 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-
16 402; 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;
17 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;
18 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-
19 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;
20 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-
21 102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

22 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
25 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
26 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
27 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the

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

21

22 **Section 3.** Section 2, Chapter 44, Laws of 2023, is amended to read:

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

26 (a) the qualified taxpayer's 2021 individual income tax liability as properly reported on line 20 of the
27 2021 Montana individual income tax return; or

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- 1 (b) an amount based on the taxpayer's 2021 filing status, equal to:
- 2 (i) for a single taxpayer, a head of household, or a married taxpayer filing a separate return,
- 3 \$1,250; or
- 4 (ii) for a married couple filing a joint return, \$2,500.
- 5 (2) The department may not issue a rebate pursuant to this section that exceeds the taxpayer's
- 6 individual income tax liability as properly reported on line 20 of the 2021 Montana individual income tax return.
- 7 (3) (a) Except as provided in subsection (3)(b), the department shall issue rebates provided for in
- 8 this section electronically or by mailing a check to the taxpayer's mailing address based on the taxpayer's
- 9 refund instructions.
- 10 (b) A rebate provided for in this section must first be credited against any outstanding liability for
- 11 which the department withholds a tax refund existing at the time the refund is issued.
- 12 (4) As provided in 15-30-2110(2)(u), a rebate provided for in this section is not taxable income.
- 13 (5) (a) As used in this section, the term "qualified taxpayer" means an individual who was a
- 14 resident as defined in 15-30-2101 for the entire income tax year beginning January 1, 2021, and who filed a
- 15 Montana individual income tax return for income tax years 2020 and 2021 by the due date for filing the return
- 16 for income tax year 2021, including any extensions ~~that have been granted~~ authorized pursuant to 15-30-
- 17 2604(1)(b) and (3), respectively.
- 18 (b) The term does not include:
- 19 (i) a taxpayer who is a nonresident, as defined in 15-30-2101, who filed tax returns in 2020 or
- 20 2021 pursuant to 15-30-2104;
- 21 (ii) an individual who was claimed as a dependent by another taxpayer for federal or Montana
- 22 income tax purposes for the 2021 tax year; or
- 23 (iii) a trust.
- 24 (6) As used in this section, the term "properly reported" means the amount reported on line 20 of
- 25 the 2021 Montana individual income tax return filed by the due date for filing that return, including any
- 26 extensions authorized pursuant to 15-30-2604(1)(b) and (3), or an amended 2021 Montana individual income
- 27 tax return filed on or before May 1, 2023."

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Section 4. Section 1, Chapter 47, Laws of 2023, is amended to read:

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

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

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

(b) for tax year 2023, the amount of Montana property taxes assessed and paid is equal to the total amount billed by the local government for the dwelling as shown on the 2023 property tax bill received by the taxpayer ~~with a first half payment due in or around November 2023 and a second half payment due in or around May 2024.~~

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

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

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

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

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

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

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1 consecutive months for each tax year.

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

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

4

5 ~~NEW SECTION. Section 3. Appropriation -- individual income tax rebate. (1) There is~~
6 ~~appropriated \$100 million from the general fund to the department of revenue for the biennium beginning July 1,~~
7 ~~2023.~~

8 ~~(2) The appropriation must be used to supplement individual income tax rebates as provided in~~
9 ~~[section 1].~~

10

11 ~~NEW SECTION. Section 4. Appropriation -- property tax rebate. (1) There is appropriated \$100~~
12 ~~million from the general fund to the department of revenue for the biennium beginning July 1, 2023.~~

13 ~~(2) The appropriation must be used to supplement property tax rebates as provided in [section 2].~~

14

15 ~~NEW SECTION. Section 5. Codification instruction. (1) [Section 1] is intended to be codified as an~~
16 ~~integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].~~

17 ~~(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 1, and the~~
18 ~~provisions of Title 15, chapter 1, apply to [section 2].~~

19

20 ~~COORDINATION SECTION. Section 6. Coordination instruction. If House Bill No. 192 is not~~
21 ~~passed and approved, then [sections 1 and 3] are void.~~

22

23 ~~COORDINATION SECTION. Section 7. Coordination instruction. If House Bill No. 222 is not~~
24 ~~passed and approved, then [sections 2 and 4] are void.~~

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

5

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

7

8 NEW SECTION. Section 8. Termination. (1) ~~[Section 1] terminates [Sections 1 through 3] terminate~~
9 December 31, 2025.

10 (2) [Section ~~2~~4] terminates June 30, 2025.

11

- END -