

HOUSE BILL NO. 258

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX REFUND TO OCCUPANTS OF MONTANA RESIDENCES; PROVIDING A ONE-TIME REFUND FOR OWNER-OCCUPIED RESIDENCES FOR WHICH HOUSEHOLD INCOME IS LESS THAN 130% OF COUNTY AREA MEDIAN INCOME; PROVIDING AN INCOME TAX CREDIT FOR CERTAIN RENTERS WITH HOUSEHOLD INCOME OF LESS THAN 130% OF COUNTY AREA MEDIAN INCOME; PROVIDING DEFINITIONS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. **Section 1. Property tax refund -- definitions.** As used in [sections 1 and 2], the following definitions apply:

(1) "County area median income" means the median family income for the county in which the primary residence is located as reported by the U.S. department of housing and urban development.

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

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

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

(4) (a) "Income" means, except as provided in subsection (4)(b), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

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

- 1 (ii) the amount of capital gains excluded from adjusted gross income;
- 2 (iii) alimony;
- 3 (iv) support money;
- 4 (v) nontaxable strike benefits;
- 5 (vi) cash public assistance and relief;
- 6 (vii) interest on federal, state, county, and municipal bonds; and
- 7 (viii) all payments received under federal social security except social security income paid directly
- 8 to a nursing home.

9 (b) For the purposes of this subsection (4), income is reduced by the taxpayer's basis.

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

12 (6) "Primary residence" means a single-family dwelling unit, unit of a multiple-unit dwelling, trailer,
 13 manufactured home, or mobile home subject to Montana property taxes and as much of the surrounding land,
 14 not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that was owned and occupied by
 15 the taxpayer.

16 (7) "Property tax" means taxes levied, including special assessments and fees, but excluding
 17 penalties or interest.

18

19 **NEW SECTION. Section 2. Property tax refund -- manner of claiming -- limitations.** (1) A
 20 taxpayer may claim a refund of up to \$650 for property taxes paid on a primary residence as provided in this
 21 section.

22 (2) Subject to subsection (3), the amount of the refund is equal to the lesser of \$650 or the
 23 property taxes actually paid on the primary residence owned and occupied by the taxpayer for 7 months or
 24 more in 2022.

25 (3) A taxpayer with gross household income reported on the most recent Montana income tax
 26 return of:

- 27 (a) 120% or less of the county area median income is eligible for the full refund provided for in
- 28 subsection (2); and

1 (b) more than 120% of the county area median income and less than 130% of the county area
2 median income is eligible for 75% of the refund provided for in subsection (2).

3 (4) (a) The department shall send to each owner of residential property information about the
4 property tax refund and a claim form. The department shall provide the initial notification by September 1, 2023,
5 and a reminder of the application deadline by April 1, 2024. Subject to subsection (4)(b), the claim for refund
6 must be in the form that the department prescribes, be executed by each taxpayer under penalty of false
7 swearing, and must include the information that the department requires, including but not limited to information
8 to demonstrate that the taxpayer is entitled to the rebate provided for in this section.

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

11 (5) (a) The claim for a refund is subject to the limitations provided for in this subsection (5).

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

14 (c) Only one claim may be made with respect to any primary residence.

15 (d) A taxpayer who owned and occupied more than one Montana residence as a primary
16 residence in 2022 for a time period that totaled 7 months or more is eligible for the refund.

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

20 (7) The property tax refund provided for in this section is statutorily appropriated, as provided in
21 17-7-502, to the department of revenue.

22

23 NEW SECTION. **Section 3. Renter property tax refund credit -- definitions.** As used in [sections 3
24 and 4], the following definitions apply:

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

28 (2) "Claimant" means a person who is eligible to file a claim under [section 4].

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

2 (4) "Dwelling" means:

3 (a) a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or
4 mobile home subject to Montana property taxes and as much of the surrounding land, not exceeding 1 acre, as
5 is reasonably necessary for its use as a dwelling and that was rented and occupied by the taxpayer for at least
6 7 months of the year for which a refund is claimed; or

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

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

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

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

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

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

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

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

23 (iii) alimony;

24 (iv) support money;

25 (v) nontaxable strike benefits;

26 (vi) cash public assistance and relief;

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

28 (viii) all payments received under federal social security except social security income paid directly

1 to a nursing home.

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

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

4
5 **NEW SECTION. Section 4. Renter property tax refund credit -- eligibility.** (1) A taxpayer whose
6 gross household income is 130% or less of the county area median income may claim a refund for rent-
7 equivalent tax paid on one or more dwellings occupied by the taxpayer for 7 months or more in 2023 as
8 provided in this section.

9 (2) (a) The amount of the refund is equal to:

10 (i) the lesser of \$650 or the rent-equivalent tax paid on the dwelling during the claim period for a
11 taxpayer with gross household income reported on the most recent Montana income tax return of 120% or less
12 of the county area median income; and

13 (ii) 75% of the credit calculated under subsection (2)(a)(i) for a taxpayer with gross household
14 income reported on the most recent Montana income tax return of more than 120% of the county area median
15 income and less than 130% of the county area median income.

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

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

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

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

27 (6) Except as provided in subsection (7), a claim for relief must be submitted at the same time the
28 claimant's 2023 individual income tax return is due. For an individual not required to file a tax return, the claim

1 must be submitted on or before April 15, 2024.

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

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

6 (9) The department or an individual may revise a return and make a claim under this section within
7 3 years from the last day prescribed for filing a claim for relief.

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

9 (11) A claim for relief may not be allowed for any portion of rent-equivalent taxes paid that is derived
10 from a public rent program.

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

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

17

18 **Section 5.** Section 17-7-502, MCA, is amended to read:

19 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
20 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
21 the need for a biennial legislative appropriation or budget amendment.

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

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

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

27 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
28 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-

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

13 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 14 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 15 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 16 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
 17 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
 18 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
 19 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
 20 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
 21 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
 22 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
 23 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 24 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,
 25 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;
 26 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,
 27 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.
 28 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,

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

11

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

13

14 NEW SECTION. **Section 7. Termination.** [This act] terminates December 31, 2024.

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