

SENATE BILL NO. 547

INTRODUCED BY S. O'BRIEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CAPITAL GAINS ADJUSTMENT TO TAXABLE INCOME FOR THE PURPOSE OF FUNDING INCREASES IN TEACHER SALARIES; ELIMINATING THE CAPITAL GAINS TAX ADJUSTMENT FOR THE PURPOSE OF CALCULATING MONTANA TAXABLE INCOME WHEN FEDERAL ADJUSTED GROSS INCOME EXCEEDS A CERTAIN AMOUNT; PROVIDING FOR AN EXTRA QUALITY EDUCATOR PAYMENT; ESTABLISHING REPORTING REQUIREMENTS TO THE EDUCATION INTERIM COMMITTEE; AMENDING SECTIONS 15-30-2120, 20-9-306, AND 20-9-324, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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

Section 1. Section 15-30-2120, MCA, is amended to read:

"15-30-2120. (Effective January 1, 2024) Adjustments to federal taxable income to determine Montana taxable income. (1) The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable income to determine Montana taxable income.

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

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

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

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

(d) 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;

(e) an item of income, deduction, or expense to the extent that it was used to calculate federal

1 taxable income if the item was also used to calculate a credit against a Montana income tax liability;

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

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

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

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

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

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

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

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

24 (i) interest from obligations of the United States government and exempt-interest dividends
25 attributable to that interest; and

26 (ii) railroad retirement benefits;

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

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

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

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

8 (iii) the amount received pursuant to 10-1-1114 or from the federal government by a service
9 member, as defined in 10-1-1112, as reimbursement for group life insurance premiums paid;

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

11 (v) all payments made under the World War I bonus law, the Korean bonus law, and the veterans'
12 bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law,
13 Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the
14 filing of an amended return and a verified claim for refund on forms prescribed by the department in the same
15 manner as other income tax refund claims are paid.

16 (d) interest and other income related to contributions that were made prior to January 1, 2024, that
17 are retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for
18 payment of eligible medical expenses or for the long-term care of the employee or account holder or a
19 dependent of the employee or account holder;

20 (e) contributions or earnings withdrawn from a family education savings account provided for in
21 Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as
22 provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified
23 education expenses, as defined in 15-62-103, of a designated beneficiary;

24 (f) interest and other income related to contributions that were made prior to January 1, 2024, that
25 are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal
26 for payment of eligible costs for the first-time purchase of a single-family residence;

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

28 (h) the amount of a scholarship to an eligible student by a student scholarship organization

1 pursuant to 15-30-3104;

2 (i) a payment received by a private landowner for providing public access to public land pursuant
3 to Title 76, chapter 17, part 1;

4 (j) the amount of any refund or credit for overpayment of income taxes imposed by this state or
5 any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not
6 previously allowed as a deduction for Montana income tax purposes;

7 (k) the recovery during the tax year of any amount deducted in any prior tax year to the extent that
8 the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

9 (l) for each taxpayer with federal adjusted gross income of less than \$1 million, an amount equal
10 to 30% of net-long term capital gains, as defined in section 1222 of the Internal Revenue Code, 26 U.S.C.
11 1222, if and to the extent such gain is taken into account in computing federal taxable income; and

12 (m) the amount of the gain recognized from the sale or exchange of a mobile home park as
13 provided in 15-31-163.

14 (4) (a) A taxpayer who, in determining federal taxable income, has reduced the taxpayer's
15 business deductions:

16 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections
17 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
18 wages and salaries paid regardless of the credit taken; or

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

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

26 (5) (a) An individual who contributes to one or more accounts established under the Montana
27 family education savings program or to a qualified tuition program established and maintained by another state
28 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

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

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

10 (6) (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 taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of
13 married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions
14 to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as
15 being made by each spouse. The reduction in taxable income under this subsection (6)(a) applies only with
16 respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or
17 the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of
18 subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

19 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in
20 53-25-118.

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

25 (8) In accordance with 5-11-210, the department shall report annually to the education interim
26 committee provided for in 5-5-224 regarding the amount of increased revenue resulting from the reduction by
27 [this act] of the capital gains tax adjustment provided for in subsection (3)(l)."
28

1 **Section 2.** Section 20-9-306, MCA, is amended to read:

2 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
3 following definitions apply:

4 (1) "BASE" means base amount for school equity.

5 (2) "BASE aid" means:

6 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement
7 for the general fund budget of a district;

8 (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic
9 entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and
10 40% of the special education allowable cost payment;

11 (c) the total quality educator payment;

12 (d) the total at-risk student payment;

13 (e) the total Indian education for all payment;

14 (f) the total American Indian achievement gap payment;

15 (g) the total data-for-achievement payment; and

16 (h) the special education allowable cost payment.

17 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of
18 the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100%
19 of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total
20 American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the
21 special education allowable cost payment.

22 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which
23 may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366
24 through 20-9-369.

25 (5) "BASE funding program" means the state program for the equitable distribution of the state's
26 share of the cost of Montana's basic system of public elementary schools and high schools, through county
27 equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in
28 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-

1 321.

2 (6) "Basic entitlement" means:

3 (a) for each high school district:

4 (i) \$326,073 for fiscal year 2022 and \$334,453 for each succeeding fiscal year for school districts
5 with an ANB of 800 or fewer; and

6 (ii) \$326,073 for fiscal year 2022 and \$334,453 for each succeeding fiscal year for school districts
7 with an ANB of more than 800, plus \$16,304 for fiscal year 2022 and \$16,723 for each succeeding fiscal year
8 for each additional 80 ANB over 800;

9 (b) for each elementary school district or K-12 district elementary program without an approved
10 and accredited junior high school, 7th and 8th grade program, or middle school:

11 (i) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or
12 K-12 district elementary programs with an ANB of 250 or fewer; and

13 (ii) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or
14 K-12 district elementary programs with an ANB of more than 250, plus \$2,718 for fiscal year 2022 and \$2,788
15 for each succeeding fiscal year for each additional 25 ANB over 250;

16 (c) for each elementary school district or K-12 district elementary program with an approved and
17 accredited junior high school, 7th and 8th grade program, or middle school:

18 (i) for the district's kindergarten through grade 6 elementary program:

19 (A) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or
20 K-12 district elementary programs with an ANB of 250 or fewer; and

21 (B) \$54,344 for fiscal year 2022 and \$55,741 for each succeeding fiscal year for school districts or
22 K-12 district elementary programs with an ANB of more than 250, plus \$2,718 for fiscal year 2022 and \$2,788
23 for each succeeding fiscal year for each additional 25 ANB over 250; and

24 (ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or
25 middle school:

26 (A) \$108,690 for fiscal year 2022 and \$111,483 for each succeeding fiscal year for school districts
27 or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

28 (B) \$108,690 for fiscal year 2022 and \$111,483 for each succeeding fiscal year for school districts

or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,434 for fiscal year 2022 and \$5,574 for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data-for-achievement payment, and the greater of the district's special education allowable cost payment multiplied by:

(a) 175%; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$223 for fiscal year 2022 and \$229 for each succeeding fiscal year times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from multiplying \$21.73 for fiscal year 2022 and \$22.29 for each succeeding fiscal year by the district's ANB calculated in accordance with 20-9-311.

(14) "Total Indian education for all payment" means the payment resulting from multiplying \$22.70 for fiscal year 2022 and \$23.28 for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of \$7,443 for fiscal year 2022 and \$7,634 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$5,813 for fiscal year 2022 and \$5,962 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of \$5,813 for fiscal year 2022 and \$5,962 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$7,443 for fiscal year 2022 and \$7,634 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16) "Total quality educator payment" means the payment resulting from multiplying \$3,385 for fiscal year 2022 and \$3,472 for each succeeding fiscal year by the sum of:

(a) the number of full-time equivalent educators as provided in 20-9-327; ~~and or~~

(b) as provided in 20-9-324, for a school district meeting the legislative goal for competitive base pay of teachers, ~~the number of full-time equivalent teachers that were in the first 3 years of the teacher's teaching career in the previous year~~ two times the number of full-time equivalent educators as provided in 20-9-327.

(17) "Total special education allocation" means the state payment distributed pursuant to 20-9-321 that is the greater of the amount resulting from multiplying \$287.93 for fiscal year 2022 and \$286.02 for each succeeding fiscal year by the statewide current year ANB or the amount of the previous year's total special education allocation."

Section 3. Section 20-9-324, MCA, is amended to read:

"20-9-324. Incentives for school districts meeting legislative goal for competitive base pay of teachers in public school districts -- definitions. (1) A district, as defined in 20-6-101, must receive an extra quality educator payment for ~~certain~~ quality educators, calculated as provided in 20-9-306(16), if it meets the legislative goal for competitive base pay of teachers in subsection (2).

(2) The legislative goal for competitive base pay of teachers is a teacher base pay that in the applicable year:

(a) is equal to at least ~~40~~ 11 times as much as the quality educator payment amount provided in 20-9-306(16); and

(b) for a school district classified as first class pursuant to Title 20, chapter 6, is not less than 70% of the teacher average pay in the school district.

(3) A district seeking an incentive for the subsequent school fiscal year under this section shall, by December 1, provide the data necessary, as determined by the superintendent of public instruction, to verify:

~~(a) that the district has met the legislative goal established in subsection (2) for the current year; and~~
~~(b) the number of full-time equivalent teachers that are in the first 3 years of the teacher's teaching career in the current year.~~

(4) For the purposes of this section, the following definitions apply:

(a) "Teacher" means an individual who:

(i) holds a current class 1, 2, 4, 6, or 7 license issued by the office of public instruction under rules adopted by the board of public education pursuant to 20-4-102; and

(ii) is employed by a school district in an instructional position requiring teacher licensure.

(b) "Teacher average pay" means the total compensation paid by a school district to all of its teachers, not including bonuses, stipends, or extended duty contracts, divided by the total full-time equivalent

1 teachers employed in the district, with full-time equivalence rounded to the nearest tenth.

2 (c) "Teacher base pay" means the lowest salary for a beginning teacher incorporated in the
3 district's collective bargaining agreement if the teachers' employment is covered by a collective bargaining
4 agreement pursuant to Title 39, chapter 31, or incorporated in district policy if the teachers' employment is not
5 covered by a collective bargaining agreement, not including bonuses, stipends, or extended duty contracts."

6

7 NEW SECTION. Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is
8 effective January 1, 2024.

9 (2) [Sections 2 and 3] are effective July 1, 2025.

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11 NEW SECTION. Section 5. Applicability. (1) [Section 1] applies to income tax years beginning after
12 December 31, 2023.

13 (2) [Sections 2 and 3] apply to additional quality educator payments made after June 30, 2025.

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