

1 HOUSE BILL NO. 225

2 INTRODUCED BY C. SPRUNGER, A. BUCKLEY, B. MERCER, J. FULLER, R. LYNCH, M. NOLAND, D.

3 HARVEY, Z. WIRTH

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN ADOPTION TAX CREDIT; PROVIDING  
6 THAT THE TAX CREDIT IS REFUNDABLE; PROVIDING RULEMAKING AUTHORITY; PROVIDING A  
7 DEFINITION; AMENDING SECTION 15-30-2303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
8 DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

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

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12 NEW SECTION. Section 1. Adoption tax credit -- rulemaking. (1) A resident taxpayer is allowed a  
13 credit against the tax imposed by 15-30-2103 or 15-30-2151 for the legal adoption of an eligible child ON OR  
14 AFTER JULY 1, 2022, ~~for which the taxpayer qualifies for the credit for adoption expenses under section 23 of the~~  
15 ~~Internal Revenue Code, 26 U.S.C. 23.~~

16 (2) The amount of the credit allowed under subsection (1) is equal to:

17 (a) \$7,500 in the tax year the adoption is final if the eligible child was in foster care under the  
18 custody of the state as provided in Title 41, chapter 3, at the time of adoption; or

19 (b) \$5,000 in the tax year the adoption is final if the eligible child does not meet the requirements  
20 of subsection (2)(a).

21 (3) To claim the credit under this section, the taxpayer shall:

22 (a) include the name, age, location of birth, and federal tax identification number, if known, of the  
23 eligible child on the tax return; and

24 (b) provide other information as required by the department, including the identification of an agent  
25 assisting with the adoption.

26 (4) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the  
27 taxpayer's tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of  
28 the credit. The credit may be claimed by filing a Montana income tax return.

- 1 (5) Only one credit is allowed for each eligible child.  
2 (6) The department shall adopt rules to administer this credit.  
3 (7) FOR THE PURPOSES OF THIS SECTION, "ELIGIBLE CHILD" MEANS A CHILD UNDER THE AGE OF 18 OR A  
4 PERSON WHO IS PHYSICALLY OR MENTALLY INCAPABLE OF PROVIDING SELF-CARE.  
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6 **Section 2.** Section 15-30-2303, MCA, is amended to read:

7 **"15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits  
8 must be reviewed during the biennium commencing July 1, 2019, and during each biennium commencing 10  
9 years thereafter:

- 10 (a) the credit for contractor's gross receipts provided for in 15-50-207; and  
11 (b) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

12 (2) The following tax credits must be reviewed during the biennium commencing July 1, 2021, and  
13 during each biennium commencing 10 years thereafter:

14 (a) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-  
15 30-3110, and 15-31-158; ~~and~~

16 (b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-  
17 30-3111, and 15-31-159; and

18 (c) the adoption tax credit provided for in [section 1].

19 (3) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and  
20 during each biennium commencing 10 years thereafter:

21 (a) the credit for infrastructure use fees provided for in 17-6-316;

22 (b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-  
23 2329, 15-31-161, and 15-31-162; and

24 (c) the credit for property to recycle or manufacture using recycled material provided for in Title 15,  
25 chapter 32, part 6.

26 (4) The following tax credits must be reviewed during the biennium commencing July 1, 2025, and  
27 during each biennium commencing 10 years thereafter:

28 (a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;

- 1 (b) the credit for unlocking state lands provided for in 15-30-2380;
- 2 (c) the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175; and
- 3 (d) the credit for trades education and training provided for in 15-30-2359 and 15-31-174.
- 4 (5) The following tax credits must be reviewed during the biennium commencing July 1, 2027, and
- 5 during each biennium commencing 10 years thereafter:
- 6 (a) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357
- 7 and 15-31-173;
- 8 (b) the earned income tax credit provided for in 15-30-2318; and
- 9 (c) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.
- 10 (6) The revenue interim committee shall review the tax credits scheduled for review and make
- 11 recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about
- 12 whether to eliminate or revise the credits. The committee shall also review any tax credit with an expiration date
- 13 or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or
- 14 terminate.
- 15 (7) The revenue interim committee shall review the credits using the following criteria:
- 16 (a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions
- 17 that may have been made regardless of the existence of the tax credit;
- 18 (b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;
- 19 (c) whether the credit has out-of-state beneficiaries;
- 20 (d) the timing of costs and benefits of the credit and how long the credit is effective;
- 21 (e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or
- 22 elimination outweigh adverse impacts; and
- 23 (f) the extent to which benefits of the credit affect the larger economy. (Subsection (4)(d)
- 24 terminates December 31, 2026--sec. 7, Ch. 248, L. 2021; subsection (4)(c) terminates December 31, 2028--
- 25 sec. 24(1), Ch. 550, L. 2021.)"
- 26

27 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an

28 integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section

1 1].

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3 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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5 NEW SECTION. SECTION 5. RETROACTIVE APPLICABILITY. [THIS ACT] APPLIES RETROACTIVELY, WITHIN  
6 THE MEANING OF 1-2-109, TO ELIGIBLE ADOPTIONS ON OR AFTER JULY 1, 2022, CLAIMED ON TAX RETURNS FILED FOR  
7 TAX YEARS BEGINNING AFTER DECEMBER 31, 2022.

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9 NEW SECTION. SECTION 4. — Applicability. [This act] applies to income tax years beginning after  
10 December 31, 2023.

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12 NEW SECTION. SECTION 6. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 2031.

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