

1 HOUSE BILL NO. 408

2 INTRODUCED BY S. VINTON, M. BINKLEY

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STUDENT SCHOLARSHIP ORGANIZATION AND

5 INNOVATIVE EDUCATIONAL PROGRAM INCOME TAX CREDITS; INCREASING THE AGGREGATE LIMITS

6 FOR THE CREDITS; LIMITING THE AMOUNT OF DONATIONS THAT A SCHOOL DISTRICT MAY RETAIN;

7 PROVIDING FOR REDISTRIBUTION OF FUNDS THAT EXCEED A SCHOOL DISTRICT'S LIMIT TO

8 SCHOOL DISTRICTS THAT RECEIVE ADVANCED OPPORTUNITY AID; REQUIRING THAT QUALIFIED

9 EDUCATION PROVIDERS ADMINISTER THE SAME ASSESSMENTS AS THOSE REQUIRED OF PUBLIC

10 SCHOOLS AND PROVIDE INFORMATION TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION;

11 REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO PUBLISH REPORT CARDS FOR

12 QUALIFIED EDUCATION PROVIDERS IN THE SAME MANNER AS PUBLIC SCHOOLS; REVISING

13 DEFINITIONS~~THE DEFINITION OF "INNOVATIVE EDUCATIONAL PROGRAM";~~ PROVIDING A STATUTORY

14 APPROPRIATION; AMENDING SECTIONS 15-30-3102, 15-30-3110, 15-30-3111, ~~AND~~ 17-7-502, AND 20-3-

15 106, MCA; AMENDING SECTIONS 23 AND 24, CHAPTER 480, LAWS OF 2021; REPEALING SECTIONS 8,

16 9, 10, 14, 15, 16, AND 25, CHAPTER 480, LAWS OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE

17 DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

18

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

20

21 NEW SECTION. **Section 1. Innovative educational program account -- revenue allocated --**

22 **appropriations from account.** (1) There is an innovative educational program account in the state special

23 revenue fund established in 17-2-102. The funds in the account must be administered by the superintendent of

24 public instruction.

25 (2) The superintendent of public instruction shall deposit in the account innovative educational

26 program donations transferred from school districts because the donations exceed the limits provided for in 15-

27 30-3110(7).

28 (3) Interest and earnings on the account must be deposited in the account.

1 (4) Money in the account is statutorily appropriated, as provided in 17-7-502, to the superintendent  
2 of public instruction for distribution pursuant to 15-30-3110(7)(c) to school districts that receive advanced  
3 opportunity aid under 20-7-1506(4). The funds must be distributed at the same time and in the same proportion  
4 as the advanced opportunity aid distributions.

5

6 **Section 2.** Section 15-30-3102, MCA, is amended to read:

7 **"15-30-3102. (Temporary) Definitions.** As used in this part, the following definitions apply:

8 (1) "Department" means the department of revenue provided for in 2-15-1301.

9 (2) "Donation" means a gift of cash.

10 (3) "Eligible student" means a student who is a Montana resident and who is 5 years of age or  
11 older on or before September 10 of the year of attendance and has not yet reached 19 years of age.

12 (4) "Innovative educational program" includes any of the following:

13 (a) transformational learning as defined in 20-7-1602;

14 (b) advanced opportunity as defined in 20-7-1503;

15 (c) any program, service, instructional methodology, or adaptive equipment used to expand  
16 opportunity for a child with a disability as defined in 20-7-401;

17 (d) any courses provided through work-based learning partnerships or for postsecondary credit or  
18 career certification; ~~and~~

19 (e) technology enhancements, including but not limited to any expenditure incurred for purposes  
20 specified in 20-9-533; and

21 (f) capital improvements and equipment necessary to support an innovative educational program.

22 (5) "Partnership" has the meaning provided in 15-30-2101.

23 (6) "Pass-through entity" has the meaning provided in 15-30-2101.

24 (7) "Qualified education provider" means an education provider that:

25 (a) is not a public school;

26 (b) (i) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional,  
27 or national accreditation organization; or

28 (ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in

1 writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;

2 (c) is not a home school as referred to in 20-5-102(2)(e);

3 (d) satisfies the health and safety requirements prescribed by law for private schools in this state;

4 ~~and~~

5 (e) administers and pays for the same statewide assessments as those required of public schools  
6 under the rules of the board of public education;

7 (f) provides to the superintendent of public instruction the information required to produce a  
8 school-level report card displaying the same information as those required of Montana public schools under  
9 federal law. The qualified education provider shall pay for any costs of accessing data systems of the office of  
10 public instruction to meet the requirements of this subsection (7)(f).

11 ~~(e)(g)~~ qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.

12 (8) "Small business corporation" has the meaning provided in 15-30-3301.

13 (9) "Student scholarship organization" means a charitable organization in this state that:

14 (a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code,  
15 26 U.S.C. 501(c)(3);

16 (b) allocates not less than 90% of its annual revenue from donations eligible for the tax credit  
17 under 15-30-3111 for scholarships to allow students to enroll with any qualified education provider; and

18 (c) provides educational scholarships to eligible students without limiting student access to only  
19 one education provider.

20 (10) "Taxpayer" has the meaning provided in 15-30-2101. (Terminates December 31, 2029--secs.  
21 20 and 24(6), Ch. 480, L. 2021.)"

22

23 **Section 3.** Section 15-30-3110, MCA, is amended to read:

24 "~~15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --~~

25 ~~innovative educational program. (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit~~

26 ~~against the tax imposed by chapter 30 or 31 for donations made to a school district for the purpose of providing~~

27 ~~supplemental funding to the school district for innovative educational programs. The amount of the credit~~

28 ~~allowed is equal to the amount of the donation, not to exceed \$200,000. A district shall deposit a donation made~~

1 for an innovative educational program into the district's miscellaneous programs fund and shall limit the  
2 expenditure of the donation to expenditures for innovative educational programs of the district.

3 ~~(2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-~~  
4 ~~through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the~~  
5 ~~same proportion as used to report the entity's income or loss.~~

6 ~~(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust~~  
7 ~~may be attributed to each beneficiary of the estate or trust in the same proportion used to report the~~  
8 ~~beneficiary's income from the estate or trust for Montana income tax purposes.~~

9 ~~(3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may~~  
10 ~~be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried first~~  
11 ~~to the earliest tax year in which the credit may be applied and then to each succeeding tax year.~~

12 ~~(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$1 million per year in tax~~  
13 ~~year 2022 and \$2 million per year in tax year 2023 and subsequent tax years except as provided in this~~  
14 ~~subsection (4)(a).~~

15 ~~(ii) Beginning in 2023, by December 31 of each year, the department shall determine if 80% of the~~  
16 ~~aggregate limit provided for in subsection (4)(a)(iii) in donations was preapproved by the department. If this~~  
17 ~~condition is satisfied, the aggregate amount of tax credits allowed must be increased by 20% for the~~  
18 ~~succeeding tax years.~~

19 ~~(iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the~~  
20 ~~base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of~~  
21 ~~subsection (4)(a)(ii).~~

22 ~~(b) The aggregate limit under this subsection (4) applies to the year in which a donation is made~~  
23 ~~regardless of whether the full credit is claimed in that tax year or carried forward.~~

24 ~~(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for~~  
25 ~~state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of~~  
26 ~~the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:~~

27 ~~(a) claiming a credit under this section instead of a deduction; or~~

28 ~~(b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount~~

1 for which the credit is allowed under this section.

2 (6) (a) On receiving a donation under this part, a school district shall seek preapproval, in a manner  
3 prescribed by the department, that the amount of tax credit sought by the taxpayer is available under the  
4 aggregate limit under subsection (4).

5 (b) On preapproval by the department, a school district shall issue a receipt, in a form prescribed by  
6 the department, to each contributing taxpayer indicating the value of the donation received and preapproval of  
7 the tax credit.

8 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates December  
9 31, 2022, 2023, and 2024, on occurrence of contingency until June 30, 2025—secs. 23(7), 25, Ch. 480, L. 2021—  
10 —see compiler's comment.)

11 **15-30-3110. (Temporary—effective on occurrence of contingency) Credit for providing**  
12 **supplemental funding to public schools -- innovative educational program.** (1) Subject to subsection (4),  
13 a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to  
14 a school district for the purpose of providing supplemental funding to the school district for innovative  
15 educational programs. The amount of the credit allowed is equal to the amount of the donation, not to exceed  
16 \$150. A district shall deposit a donation made for an innovative educational program into the district's  
17 miscellaneous programs fund and shall limit the expenditure of the donation to expenditures for innovative  
18 educational programs of the district.

19 (2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-  
20 through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the  
21 same proportion as used to report the entity's income or loss.

22 (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust  
23 may be attributed to each beneficiary of the estate or trust in the same proportion used to report the  
24 beneficiary's income from the estate or trust for Montana income tax purposes.

25 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability. There is  
26 no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the  
27 year the donation is made, as determined by the taxpayer's accounting method.

28 (4) (a) (i) The aggregate amount of tax credits allowed under this section is \$1 million per year in tax

1 year 2022 and \$2 million per year in tax year 2023 and subsequent tax years except as provided in this  
2 subsection (4)(a).

3 (ii) ~~Beginning in 2023, by December 31 of each year, the department shall determine if 80% of the~~  
4 ~~aggregate limit provided for in subsection (4)(a)(iii) in donations was preapproved by the department. If this~~  
5 ~~condition is satisfied, the aggregate amount of tax credits allowed must be increased by 20% for the~~  
6 ~~succeeding tax years.~~

7 (iii) ~~If the aggregate limit is increased in any tax year, the department shall use the new limit as the~~  
8 ~~base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of~~  
9 ~~subsection (4)(a)(ii).~~

10 (b) ~~The aggregate limit under this subsection (4) applies to the year in which a donation is made~~  
11 ~~regardless of whether the full credit is claimed in that tax year or carried forward.~~

12 (5) ~~A credit is not allowed under this section with respect to any amount deducted by the taxpayer for~~  
13 ~~state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of~~  
14 ~~the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:~~

15 (a) ~~claiming a credit under this section instead of a deduction; or~~

16 (b) ~~claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount~~  
17 ~~for which the credit is allowed under this section.~~

18 (6) (a) ~~On receiving a donation under this part, a school district shall seek preapproval, in a manner~~  
19 ~~prescribed by the department, that the amount of tax credit sought by the taxpayer is available under the~~  
20 ~~aggregate limit under subsection (4).~~

21 (b) ~~On preapproval by the department, a school district shall issue a receipt, in a form prescribed by~~  
22 ~~the department, to each contributing taxpayer indicating the value of the donation received and preapproval of~~  
23 ~~the tax credit.~~

24 (c) ~~A taxpayer shall provide a copy of the receipt when claiming the tax credit.~~

25 **15-30-3110. (Temporary -- effective July 1, 2025) Credit for providing supplemental funding to**  
26 **public schools -- innovative educational program.** (1) Subject to subsection (4), a taxpayer or corporation is  
27 allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a school district for the  
28 purpose of providing supplemental funding to the school district for innovative educational programs. The

1 amount of the credit allowed is equal to the amount of the donation, not to exceed \$200,000. ~~A district shall~~  
2 ~~deposit a donation made for an innovative educational program into the district's miscellaneous programs fund~~  
3 ~~and shall limit the expenditure of the donation to expenditures for innovative educational programs of the~~  
4 ~~district.~~

5 (2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-  
6 through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the  
7 same proportion as used to report the entity's income or loss.

8 (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust  
9 may be attributed to each beneficiary of the estate or trust in the same proportion used to report the  
10 beneficiary's income from the estate or trust for Montana income tax purposes.

11 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability but  
12 may be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried  
13 first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

14 (4) (a) (i) The aggregate amount of tax credits allowed under this section is ~~\$1 million per year in~~  
15 ~~tax year 2022 and \$2 million per year in tax year 2023 and \$5 million per year in tax year 2024~~ and subsequent  
16 tax years except as provided in this subsection (4)(a).

17 (ii) Beginning in ~~2023~~ 2024, by December 31 of each year, the department shall determine if 80%  
18 of the aggregate limit provided for in subsection (4)(a)(iii) in donations was preapproved by the department. If  
19 this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 20% for the  
20 succeeding tax years.

21 (iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the  
22 base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of  
23 subsection (4)(a)(ii).

24 (b) The aggregate limit under this subsection (4) applies to the year in which a donation is made  
25 regardless of whether the full credit is claimed in that tax year or carried forward.

26 (5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer  
27 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)  
28 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

1 (a) claiming a credit under this section instead of a deduction; or  
2 (b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount  
3 for which the credit is allowed under this section.

4 (6) (a) On receiving a donation under this part, a school district shall seek preapproval, in a  
5 manner prescribed by the department, that the amount of tax credit sought by the taxpayer is available under  
6 the aggregate limit under subsection (4).

7 (b) On preapproval by the department, a school district shall issue a receipt, in a form prescribed  
8 by the department, to each contributing taxpayer indicating the value of the donation received and preapproval  
9 of the tax credit.

10 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit.

11 (7) (a) A school district may not retain donations under this section that exceed EITHER:

12 (i) the greater of \$50,000 or 15% of the school district's maximum general fund budget; or

13 (ii) 20% of the total aggregate amount provided for in subsection (4).

14 (b) If a school district receives donations that exceed the amounts provided for in subsection

15 (7)(a), the school district shall transfer the excess funds within 30 days to the superintendent of public  
16 instruction for deposit in the account provided for in [section 1].

17 (c) The superintendent of public instruction shall distribute funds received under subsection (7)(b)  
18 to school districts that receive advanced opportunity aid under 20-7-1506(4). A school district shall deposit  
19 funds received under this subsection (7)(c) into the school district flexibility fund and use them for out-of-pocket  
20 pupil costs provided for in 20-7-1506(5)(a).

21 (8) A school district shall deposit retained donations into the school district's miscellaneous  
22 programs fund and shall limit the expenditure of the donation to expenditures for innovative educational  
23 programs of the school district. (Terminates December 31, 2029--secs. 20, 24(6), Ch. 480, L. 2021.)"

24

25 **Section 4.** Section 15-30-3111, MCA, is amended to read:

26 "~~15-30-3111. (Temporary) Qualified education tax credit for donations to student scholarship~~  
27 ~~organizations.~~ (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit against the tax  
28 imposed by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not



1 direct or designate donations to a parent, legal guardian, or specific qualified education provider. The amount of  
2 the credit allowed is equal to the amount of the donation, not to exceed \$200,000.

3 ~~(2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-~~  
4 ~~through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the~~  
5 ~~same proportion as used to report the entity's income or loss.~~

6 ~~(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust~~  
7 ~~may be attributed to each beneficiary of the estate or trust in the same proportion used to report the~~  
8 ~~beneficiary's income from the estate or trust for Montana income tax purposes.~~

9 ~~(3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may~~  
10 ~~be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried first~~  
11 ~~to the earliest tax year in which the credit may be applied and then to each succeeding tax year~~

12 ~~(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$1 million per year in tax~~  
13 ~~year 2022 and \$2 million per year in tax year 2023 and subsequent tax years except as provided in this~~  
14 ~~subsection (4)(a).~~

15 ~~(ii) Beginning in 2023, by December 31 of each year, the department shall determine if 80% of the~~  
16 ~~aggregate limit provided for in subsection (4)(a)(iii) in tax credits was preapproved by the department. If this~~  
17 ~~condition is satisfied, the aggregate limit of tax credits allowed must be increased by 20% for the succeeding~~  
18 ~~tax years.~~

19 ~~(iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the~~  
20 ~~aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of~~  
21 ~~subsection (4)(a)(ii).~~

22 ~~(b) The aggregate limit under this subsection (4) applies to the year in which a donation is made~~  
23 ~~regardless of whether the full credit is claimed in that tax year or carried forward.~~

24 ~~(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for~~  
25 ~~state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of~~  
26 ~~the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:~~

27 ~~(a) claiming a credit under this section instead of a deduction; or~~

28 ~~(b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount~~

1 for which the credit is allowed under this section.

2 (6) (a) On receiving a donation under this part, a student scholarship organization shall seek  
3 preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is  
4 available under the aggregate limit under subsection (4).

5 (b) On preapproval by the department, a student scholarship organization shall issue a receipt, in a  
6 form prescribed by the department, to each contributing taxpayer indicating the value of the donation received  
7 and preapproval of the tax credit.

8 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates December  
9 31, 2022, 2023, and 2024 on occurrence of contingency until June 30, 2025 secs. 23(7), 25, Ch. 480, L. 2021--  
10 see compiler's comment.)

11 **15-30-3111. (Temporary -- effective on occurrence of contingency) Qualified education tax**  
12 **credit for donations to student scholarship organizations.** (1) Subject to subsection (4), a taxpayer or  
13 corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student  
14 scholarship organization. The donor may not direct or designate donations to a parent, legal guardian, or  
15 specific qualified education provider. The amount of the credit allowed is equal to the amount of the donation,  
16 not to exceed \$150.

17 (2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-  
18 through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the  
19 same proportion as used to report the entity's income or loss.

20 (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust  
21 may be attributed to each beneficiary of the estate or trust in the same proportion used to report the  
22 beneficiary's income from the estate or trust for Montana income tax purposes.

23 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability. There is  
24 no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the  
25 year the donation is made, as determined by the taxpayer's accounting method.

26 (4) (a) (i) The aggregate amount of tax credits allowed under this section is \$1 million per year in tax  
27 year 2022 and \$2 million per year in tax year 2023 and subsequent tax years except as provided in this  
28 subsection (4)(a).

1           (ii) ~~Beginning in 2023, by December 31 of each year, the department shall determine if 80% of the~~  
2 ~~aggregate limit provided for in subsection (4)(a)(iii) in tax credits was preapproved by the department. If this~~  
3 ~~condition is satisfied, the aggregate limit of tax credits allowed must be increased by 20% for the succeeding~~  
4 ~~tax years.~~

5           (iii) ~~If the aggregate limit is increased in any tax year, the department shall use the new limit as the~~  
6 ~~aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of~~  
7 ~~subsection (4)(a)(ii).~~

8           (b) ~~The aggregate limit under this subsection (4) applies to the year in which a donation is made~~  
9 ~~regardless of whether the full credit is claimed in that tax year or carried forward.~~

10           (5) ~~A credit is not allowed under this section with respect to any amount deducted by the taxpayer for~~  
11 ~~state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of~~  
12 ~~the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:~~

13           (a) ~~claiming a credit under this section instead of a deduction; or~~

14           (b) ~~claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount~~  
15 ~~for which the credit is allowed under this section.~~

16           (6) (a) ~~On receiving a donation under this part, a student scholarship organization shall seek~~  
17 ~~preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is~~  
18 ~~available under the aggregate limit under subsection (4).~~

19           (b) ~~On preapproval by the department, a student scholarship organization shall issue a receipt, in a~~  
20 ~~form prescribed by the department, to each contributing taxpayer indicating the value of the donation received~~  
21 ~~and preapproval of the tax credit.~~

22           (c) ~~A taxpayer shall provide a copy of the receipt when claiming the tax credit.~~

23           **15-30-3111. (Temporary—effective July 1, 2025) Qualified education tax credit for donations to**  
24 **student scholarship organizations.** (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit  
25 against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The  
26 donor may not direct or designate donations to a parent, legal guardian, or specific qualified education provider.  
27 The amount of the credit allowed is equal to the amount of the donation, not to exceed \$200,000.

28           (2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-

1 through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the  
2 same proportion as used to report the entity's income or loss.

3 (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust  
4 may be attributed to each beneficiary of the estate or trust in the same proportion used to report the  
5 beneficiary's income from the estate or trust for Montana income tax purposes.

6 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability but  
7 may be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried  
8 first to the earliest tax year in which the credit may be applied and then to each succeeding tax year

9 (4) (a) (i) The aggregate amount of tax credits allowed under this section is ~~\$1 million per year in~~  
10 ~~tax year 2022 and~~ \$2 million per year in tax year 2023 and \$5 million per year in tax year 2024 and subsequent  
11 tax years except as provided in this subsection (4)(a).

12 (ii) Beginning in ~~2023~~ 2024, by December 31 of each year, the department shall determine if 80%  
13 of the aggregate limit provided for in subsection (4)(a)(iii) in tax credits was preapproved by the department. If  
14 this condition is satisfied, the aggregate limit of tax credits allowed must be increased by 20% for the  
15 succeeding tax years.

16 (iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the  
17 aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of  
18 subsection (4)(a)(ii).

19 (b) The aggregate limit under this subsection (4) applies to the year in which a donation is made  
20 regardless of whether the full credit is claimed in that tax year or carried forward.

21 (5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer  
22 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)  
23 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

24 (a) claiming a credit under this section instead of a deduction; or

25 (b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount  
26 for which the credit is allowed under this section.

27 (6) (a) On receiving a donation under this part, a student scholarship organization shall seek  
28 preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is

1 available under the aggregate limit under subsection (4).

2 (b) On preapproval by the department, a student scholarship organization shall issue a receipt, in  
3 a form prescribed by the department, to each contributing taxpayer indicating the value of the donation received  
4 and preapproval of the tax credit.

5 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates  
6 December 31, 2029--secs. 20, 24(6), Ch. 480, L. 2021.)"

7

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

9 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
10 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without  
11 the need for a biennial legislative appropriation or budget amendment.

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

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

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

17 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-  
18 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-  
19 807; 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;  
20 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-  
21 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-  
22 112; 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-  
23 506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; [section 1]; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-  
24 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-  
25 402; 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;  
26 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;  
27 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-  
28 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;

1 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-  
2 102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

3 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
4 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
5 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
6 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined  
7 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have  
8 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the  
9 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement  
10 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410  
11 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental  
12 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on  
13 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
14 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,  
15 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;  
16 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,  
17 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.  
18 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,  
19 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-  
20 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates  
21 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June  
22 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to  
23 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,  
24 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion  
25 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004  
26 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,  
27 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and  
28 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

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**Section 6.** Section 20-3-106, MCA, is amended to read:

**"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction has the general supervision of the public schools and districts of the state and shall perform the following duties or acts in implementing and enforcing the provisions of this title:

- (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;
- (2) issue, renew, or deny teacher certification and emergency authorizations of employment;
- (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;
- (4) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;
- (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;
- (6) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-506;
- (7) establish a system of communication for calculating joint district revenue in accordance with the provisions of 20-9-151;
- (8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment in accordance with the approval and disbursement provisions of 20-9-166;
- (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
- (10) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;
- (11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance with the provisions of 20-9-313 and 20-9-314;

- 1 (12) distribute BASE aid and special education allowable cost payments in support of the BASE
- 2 funding program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and
- 3 20-9-366 through 20-9-369;
- 4 (13) provide for the uniform and equal provision of transportation by performing the duties
- 5 prescribed by the provisions of 20-10-112;
- 6 (14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-
- 7 603;
- 8 (15) authorize the use of federal money for the support of an interlocal cooperative agreement in
- 9 accordance with the provisions of 20-9-703 and 20-9-704;
- 10 (16) prescribe the form and contents of and approve or disapprove interstate contracts in
- 11 accordance with the provisions of 20-9-705;
- 12 (17) recommend standards of accreditation for all schools to the board of public education in
- 13 accordance with the provisions of 20-7-101;
- 14 (18) evaluate compliance with the accreditation standards and recommend accreditation status of
- 15 every school to the board of public education in accordance with the provisions of 20-7-102;
- 16 (19) collect and maintain a file of curriculum guides and assist schools with instructional programs in
- 17 accordance with the provisions of 20-7-113 and 20-7-114;
- 18 (20) establish and maintain a library of visual, aural, and other educational media in accordance
- 19 with the provisions of 20-7-201;
- 20 (21) license textbook dealers and initiate prosecution of textbook dealers violating the law in
- 21 accordance with the provisions of the textbooks part of this title;
- 22 (22) as the governing agent and executive officer of the state of Montana for K-12 career and
- 23 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of 20-7-
- 24 301;
- 25 (23) supervise and coordinate the conduct of special education in the state in accordance with the
- 26 provisions of 20-7-403;
- 27 (24) administer the traffic education program in accordance with the provisions of 20-7-502;
- 28 (25) administer the school food services program in accordance with the provisions of 20-10-201



1 through 20-10-203;

2 (26) review school building plans and specifications in accordance with the provisions of 20-6-622;

3 (27) provide schools with information and technical assistance for compliance with the student

4 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for

5 the board of public education and the legislature;

6 (28) upon request and in compliance with confidentiality requirements of state and federal law,

7 disclose to interested parties all school district student assessment data for a test required by the board of

8 public education;

9 (29) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-

10 9-369; ~~and~~

11 (30) produce and publish a school-level report card displaying the same information as those

12 required of Montana public schools under federal law for any qualified education provider receiving scholarship

13 funds from a student scholarship organization pursuant to 15-30-3104; and

14 ~~(30)~~(31) perform any other duty prescribed from time to time by this title, any other act of the

15 legislature, or the policies of the board of public education."

16  
17 **Section 7.** Section 23, Chapter 480, Laws of 2021, is amended to read:

18 **"Section 23. Effective date -- applicability.** (1) Except as provided in subsections (2) through ~~(7)~~(4),  
19 [this act] is effective July 1, 2021.

20 (2) [Sections 1 through 6, 12, 18, 19, and 21] are effective October 1, 2021, and apply to the  
21 income tax year beginning after December 31, 2021.

22 (3) [Sections 7 and 13] are effective January 1, 2022, and apply to the income tax year beginning  
23 after December 31, 2021.

24 (4) ~~[Sections 8 and 14]~~[Sections 11 and 17] are effective January 1, 2023, and apply to the  
25 income tax year beginning after December 31, 2022.

26 ~~(5) [Sections 9 and 15] are effective January 1, 2024, and apply to the income tax year beginning~~  
27 ~~after December 31, 2023.~~

28 ~~(6) [Sections 10 and 16] are effective January 1, 2025, and apply to the income tax year beginning~~

1 after ~~December 31, 2024.~~

2 ~~(7) [Sections 11 and 17] are effective July 1, 2025, and apply to income tax years beginning after~~  
3 ~~June 30, 2025."~~

4

5 **Section 8.** Section 24, Chapter 480, Laws of 2021, is amended to read:

6 **"Section 24. Termination.** (1) [Sections 7 and 13] terminate December 31, 2022.

7 ~~(2) [Sections 8 and 14] terminate December 31, 2023.~~

8 ~~(3) [Sections 9 and 15] terminate December 31, 2024.~~

9 ~~(4) [Sections 10 and 16] terminate December 31, 2025.~~

10 ~~(5) [Section 25] terminates January 1, 2025.~~

11 ~~(6)(2) [Sections 1 through 6 and 11, 12, 17, and 18] terminate December 31, 2029."~~

12

13 **NEW SECTION. Section 9. Repealer.** Sections 8, 9, 10, 14, 15, 16, and 25, Chapter 480, Laws of  
14 2021, are repealed.

15

16 **NEW SECTION. Section 10. Codification instruction.** [Section 1] is intended to be codified as an  
17 integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 1].

18

19 **NEW SECTION. Section 11. Effective date.** [This act] is effective on passage and approval.

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21 **NEW SECTION. Section 12. Applicability.** [This act] applies to income tax years beginning after  
22 December 31, 2023.

23

24 **NEW SECTION. Section 13. Termination.** [Sections 1 through ~~5~~6] terminate December 31, 2029.

25

- END -