

SENATE BILL NO. 342

INTRODUCED BY ESSMANN, O'HARA, WINDY BOY

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A TAX CREDIT FOR CONTRIBUTIONS TO STUDENT
5 SCHOLARSHIP ORGANIZATIONS BY INDIVIDUAL AND CORPORATE TAXPAYERS; PROVIDING
6 REQUIREMENTS FOR GRANTING SCHOLARSHIPS AND DETERMINING SCHOOLS OR PROGRAMS
7 ELIGIBLE TO EDUCATE STUDENTS RECEIVING SCHOLARSHIPS; PROVIDING THAT THE AMOUNT OF
8 THE SCHOLARSHIP IS NOT TAXABLE INCOME; ESTABLISHING THE MAXIMUM AMOUNT THAT MAY BE
9 CLAIMED AS A CREDIT; LIMITING THE TOTAL AMOUNT OF CREDITS THROUGH AN APPLICATION
10 PROCESS TO THE DEPARTMENT OF REVENUE; REQUIRING REPORTS TO THE INTERIM REVENUE AND
11 TRANSPORTATION COMMITTEE; AMENDING SECTION 15-30-111, MCA; AND PROVIDING AN IMMEDIATE
12 A DELAYED EFFECTIVE DATE, ~~AND A RETROACTIVE~~ AN APPLICABILITY DATE, AND A TERMINATION
13 DATE."

14
15 WHEREAS, a quality education is crucial for individual achievement and for the long-term health of our
16 society; and

17 WHEREAS, most, but not all, students perform well in a traditional public school setting; and

18 WHEREAS, it is in the best interest of this state to ensure that all parents, regardless of means, have the
19 opportunity to choose an educational venue that works best for their child; and

20 WHEREAS, Montana is one of only eight remaining states without school choice or charter schools; and

21 WHEREAS, many Montana parents would like the opportunity to choose a school for their child among
22 options that include private schools, charter schools, virtual schools, and home schooling.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25
26 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 6], the following definitions
27 apply:

- 28 (1) (a) "Eligible student" means a student who is a Montana resident and who:
- 29 (i) is eligible to enroll in an elementary or secondary school program in Montana or is eligible to enroll
- 30 in a qualified kindergarten program ~~or preschool program~~; and

1 (ii) (A) ~~qualifies at or below 150% of~~ IS THE CHILD OF A HOUSEHOLD WITH AN INCOME OF 150% OR LESS OF
 2 THE ELIGIBILITY GUIDELINES FOR the free ~~or~~ AND reduced-price school lunch ~~rate~~ PROGRAM under the National
 3 School Lunch Act, 42 U.S.C. 1751, et. seq.; or

4 (B) is currently placed or during the previous fiscal year was placed in foster care.

5 (b) A student who qualified in 1 year may continue to be a qualified student if the student's household
 6 income level does not exceed 150% of the free ~~or reduced~~ AND REDUCED-PRICE lunch ~~rates~~ PROGRAM ELIGIBILITY
 7 GUIDELINES under the National School Lunch Act, 42 U.S.C. 1751, et. seq. A sibling of a student who is continuing
 8 in the program and resides in the same household as the student is eligible as a first-time income tax credit
 9 scholarship recipient if the student's household income level does not exceed 150% of the free ~~or reduced~~ AND
 10 REDUCED-PRICE lunch ~~rates~~ PROGRAM ELIGIBILITY GUIDELINES under the National School Lunch Act, 42 U.S.C. 1751,
 11 et. seq.

12 (2) "Qualified school or program" means a school or program that:

13 (a) is a nonpublic elementary school or secondary school that is located in this state or is a public or
 14 private school located in the United States that provides distance learning instruction;

15 (b) is accredited or ~~is in the process of becoming accredited~~ HAS APPLIED FOR ACCREDITATION OR IS
 16 PROVISIONALLY ACCREDITED by the northwest accreditation association ~~or other nationally recognized accreditation~~
 17 ~~association~~;

18 (c) is not a home school as provided in 20-5-109;

19 (d) administers a nationally recognized normative assessment test and makes the results available to
 20 parents; and

21 (e) satisfies the health and safety requirements prescribed by law for private schools in this state.

22 (3) "Student scholarship organization" means a charitable organization in this state that:

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

25 (b) allocates not less than ~~90%~~ 95% of its annual revenue for scholarships to allow students to attend
 26 any qualified school ~~of their parents' choice~~ OR PROGRAM; and

27 (c) provides educational scholarships to eligible students without limiting availability to students of only
 28 one school OR GROUP OF AFFILIATED SCHOOLS.

29
 30 NEW SECTION. Section 2. Requirements for student scholarship organizations. (1) Each student

1 scholarship organization:

2 (a) shall obligate at least ~~90%~~ 95% of its annual revenue for scholarships, but up to 25% of that amount
3 may be carried forward for the next fiscal year;

4 (b) may not restrict or reserve scholarships for use at a particular school and shall allow an eligible
5 student to attend any ~~eligible private school~~ QUALIFIED SCHOOL OR PROGRAM of the parents' choice;

6 (c) shall, in granting scholarships, ~~maintain a ratio of granting one scholarship to a private school student
7 to attend a private school to three scholarships to full-time public school pupils, or to students who when first
8 granted a scholarship were full-time public school pupils, to attend private schools~~ PROVIDE SCHOLARSHIPS TO
9 ATTEND A QUALIFIED SCHOOL OR PROGRAM ONLY TO:

10 (i) STUDENTS WHO WHEN GRANTED A SCHOLARSHIP WERE FULL-TIME PUBLIC SCHOOL STUDENTS; OR

11 (ii) STUDENTS ENTERING KINDERGARTEN OR ENROLLING FOR THE FIRST TIME IN A SCHOOL IN THIS STATE;

12 (d) shall average ~~\$2,500~~ in the FOLLOWING amount ~~of each scholarship;~~ FOR SCHOLARSHIPS FOR EACH
13 YEAR LISTED:

<u>CALENDAR YEAR</u>	<u>AMOUNT</u>
<u>2011</u>	<u>\$2,000</u>
<u>2012</u>	<u>\$2,000</u>
<u>2013</u>	<u>\$2,000</u>
<u>2014</u>	<u>\$2,000</u>
<u>2015</u>	<u>\$2,500</u>
<u>2016</u>	<u>\$2,500</u>
<u>2017</u>	<u>\$2,500</u>
<u>2018</u>	<u>\$3,000</u>
<u>2019</u>	<u>\$3,000</u>
<u>2020</u>	<u>\$3,000</u>
<u>2020</u>	<u>\$3,500</u>

26 (e) may, notwithstanding that the recipient is not an eligible student, grant to a public school pupil a
27 TRANSPORTATION scholarship in an amount not to exceed \$500 for student transportation expenses to a public
28 school in which the pupil is enrolled if the school is located outside the district in which the pupil resides, but
29 transportation scholarships may not exceed 5.5% of the amount of scholarship funds awarded by the
30 organization;

- 1 (f) shall maintain separate accounts for scholarship funds and operating funds;
- 2 (g) may transfer funds to another student scholarship organization;
- 3 (h) shall conduct an audit of its accounts by an independent certified public accountant within ~~420~~ 60
- 4 days after the completion of the student scholarship organization's fiscal year and provide a copy of the audit to
- 5 the department of revenue in accordance with [section 3]; and
- 6 (i) shall annually submit a notice to the office of public instruction, in accordance with office of public
- 7 instruction guidelines, of its participation as a student scholarship organization under [sections 1 through 8].
- 8 (2) A student scholarship organization is eligible to participate in the provisions of [sections 1 through
- 9 8] unless the department of revenue has determined that the organization has substantially and intentionally failed
- 10 to comply with the provisions of subsection (1). The organization may appeal the department's determination of
- 11 failure to comply with subsection (1) according to the uniform dispute review procedure in 15-1-211.

12

13 **NEW SECTION. Section 3. Taxation requirements for student scholarship organizations.** (1)

14 Each student scholarship organization shall, WITHIN 120 DAYS AFTER COMPLETION OF THE STUDENT SCHOLARSHIP

15 ORGANIZATION'S FISCAL YEAR, report to the department of revenue, on a form provided by the department, ~~by April~~

16 ~~15 of each year~~ the following:

- 17 (a) the total number and dollar value of contributions and tax credits approved; and
- 18 (b) a list of donors, including the dollar value of each donation and the dollar value of each approved tax
- 19 credit.
- 20 (2) A copy of the audit conducted pursuant to [section 2] must accompany the report.
- 21 (3) The department of revenue may not require any other substantive information from student
- 22 scholarship organizations except as expressly authorized in [sections 1 through 8].

23

24 **NEW SECTION. Section 4. Report to revenue and transportation interim committee.** The

25 department of revenue shall provide a list of all student scholarship organizations receiving contributions from

26 businesses and individuals that are granted a tax credit under to [sections 1 through 8] to the revenue and

27 transportation interim committee each biennium.

28

29 **NEW SECTION. Section 5. Restrictive endorsement -- tuition payment limitation.** (1) The parent

30 or guardian of a student to whom a scholarship award is granted shall restrictively endorse the scholarship award

1 to ~~the private school~~ A QUALIFIED SCHOOL OR PROGRAM for deposit into the account of the ~~private school~~ QUALIFIED
 2 SCHOOL OR PROGRAM. The parent or guardian may not designate any entity or individual associated with the
 3 participating ~~private school~~ QUALIFIED SCHOOL OR PROGRAM as the parent's attorney-in-fact to endorse a
 4 scholarship warrant. A participant who fails to comply with this section forfeits the scholarship.

5 (2) A parent or guardian may endorse a transportation scholarship award and spend the funds to defer
 6 the expense of the pupil's transportation to an out-of-district public school.

7 (3) ~~A private school may not grant one or more scholarship awards to an eligible student~~ PARENT OF AN
 8 ELIGIBLE STUDENT MAY NOT ACCEPT ONE OR MORE SCHOLARSHIP AWARDS FROM A STUDENT SCHOLARSHIP ORGANIZATION
 9 if the total amount of the awards exceeds the individual total tuition amount charged by the ~~school for the student~~
 10 ~~awarded the scholarship~~ QUALIFIED SCHOOL OR PROGRAM FOR THAT STUDENT.

11
 12 NEW SECTION. Section 6. Website. The office of public instruction shall maintain on its website a
 13 current list of all student scholarship organizations that have provided notice pursuant to [section 2].
 14

15 NEW SECTION. Section 7. Qualified education tax credit. (1) An individual taxpayer is allowed a
 16 credit against the tax imposed by this chapter for ~~80%~~ 70% of ~~qualified education expenses~~ CHARITABLE
 17 DONATIONS MADE TO STUDENT SCHOLARSHIP ORGANIZATIONS as follows:

18 (a) for a single individual, ~~or a head of household,~~ OR A MARRIED TAXPAYER FILING A SEPARATE RETURN,
 19 an amount not to exceed \$1,000 per tax year; or

20 (b) for a married couple filing a joint return, an amount not to exceed \$2,000 per tax year.

21 (2) The tax credit is not allowed if the taxpayer designates the taxpayer's ~~qualified education expenses~~
 22 CHARITABLE DONATIONS MADE TO STUDENT SCHOLARSHIP ORGANIZATIONS for the direct benefit of any dependent of
 23 the taxpayer OR OTHERWISE ENGAGES IN ANY ATTEMPT TO DIRECTLY OR INDIRECTLY DIRECT THE DISTRIBUTION OF THE
 24 SCHOLARSHIPS BY THE STUDENT SCHOLARSHIP ORGANIZATION.

25 (3) If the credit allowed under this section is claimed by a small business corporation, as defined in
 26 15-30-1101, or a partnership, the credit must be attributed to shareholders or partners, using the same proportion
 27 used to report the corporation's or partnership's income or loss for Montana income tax purposes.

28 (4) The total amount of the tax credit under this section for a tax year may not exceed the taxpayer's
 29 income tax liability. Any unused tax credit may be carried forward against the taxpayer's succeeding 5 years' tax
 30 liability. A credit is not allowed the taxpayer against prior years' tax liability.

1 (5) (a) The aggregate amount of tax credits allowed under this section may not exceed ~~\$10.3 million~~ THE
 2 FOLLOWING AMOUNT in a THE APPLICABLE tax year-;

3	<u>TAX YEAR</u>	<u>AMOUNT</u>
4	<u>2011</u>	<u>\$1.75 MILLION</u>
5	<u>2012</u>	<u>\$2.75 MILLION</u>
6	<u>2013</u>	<u>\$3 MILLION</u>
7	<u>2014</u>	<u>\$4 MILLION</u>
8	<u>2015</u>	<u>\$5 MILLION</u>
9	<u>2016</u>	<u>\$6 MILLION</u>
10	<u>2017</u>	<u>\$7 MILLION</u>
11	<u>2018</u>	<u>\$8 MILLION</u>
12	<u>2019</u>	<u>\$9 MILLION</u>
13	<u>2020</u>	<u>\$10 MILLION</u>

14 (b) The department shall authorize the tax credits on a first-come, first-served basis.

15 (c) For the purposes of subsections (5)(a) and (5)(b), a student scholarship organization shall notify
 16 potential donors of the requirements of this section. Before making a contribution to a student scholarship
 17 organization, a potential donor shall notify the department ON OR BEFORE OCTOBER 1 of the total amount of
 18 contributions that the potential donor intends to make to the student scholarship organization. The department
 19 shall preapprove or deny the requested amount within 30 days after receiving the request from the potential
 20 donor. IF WITHIN 30 DAYS THE DEPARTMENT FAILS TO PREAPPROVE OR DENY THE REQUEST, THE REQUEST IS CONSIDERED
 21 APPROVED. To receive a tax credit under this section, a donor shall make the contribution to the student
 22 scholarship organization within 30 days after receiving notice from the department that the requested amount was
 23 preapproved. If the potential donor does not make the contribution within the required time, the department may
 24 not include the preapproved contribution amount when calculating the limit prescribed in subsection (5)(a) AND
 25 THE DONOR MAY NOT RECEIVE THE CREDIT.

26 (d) Preapproval of contributions by the department must be based solely on the availability of tax credits
 27 subject to the aggregate total limit established in subsection (5)(a).

28 (e) To claim the student scholarship organization tax credit under this section, a letter of confirmation
 29 of donation issued by the student scholarship organization to which the contribution was made must be attached
 30 to the taxpayer's tax return. The letter of confirmation of donation must contain the taxpayer's name, address, and

1 tax identification number, the amount of the contribution, the date of the contribution, and the amount of the credit.

2 (6) A credit is not allowed under this section with respect to any amount deducted by the taxpayer as
 3 a charitable contribution to a charitable organization qualified under section 501(c)(3) of the Internal Revenue
 4 Code, 26 U.S.C. 501(c)(3).

5 (7) The department may adopt rules and administer the tax provisions of this section.

6 (8) As used in this section:

7 (a) "~~qualified education expense~~" "CHARITABLE DONATION" means the ~~expenditure~~ PAYMENT of funds by
 8 the taxpayer during the tax year for which a credit under this section is claimed and allowed to a student
 9 scholarship organization operating pursuant to [sections 1 through 6] that are used for tuition and fees for a
 10 qualified school or program AND TO PROVIDE SCHOLARSHIPS FOR TRANSPORTATION;

11 (b) "qualified school or program" has the same meaning as in [section 1]; and

12 (c) "student scholarship organization" has the same meaning as in [section 1].

13
 14 NEW SECTION. Section 8. Qualified education tax credit. (1) A corporation is allowed a credit
 15 against the tax imposed by this chapter for ~~80%~~ 70% of ~~qualified education expenses~~ CHARITABLE DONATIONS
 16 MADE TO STUDENT SCHOLARSHIP ORGANIZATIONS as provided in [section 7(2) through (8)] in an amount not to
 17 exceed ~~80%~~ THE LESSER OF 70% of the actual amount expended or ~~\$250,000, whichever is less.;~~

<u>TAX YEAR</u>	<u>AMOUNT</u>
<u>2011</u>	<u>\$90,000</u>
<u>2012</u>	<u>\$90,000</u>
<u>2013</u>	<u>\$110,000</u>
<u>2014</u>	<u>\$130,000</u>
<u>2015</u>	<u>\$150,000</u>
<u>2016</u>	<u>\$170,000</u>
<u>2017</u>	<u>\$190,000</u>
<u>2018</u>	<u>\$210,000</u>
<u>2019</u>	<u>\$230,000</u>
<u>2020</u>	<u>\$250,000</u>

29 (2) A credit allowed by this section must be administered pursuant to and meet the requirements of
 30 [section 7(2) through (8)].

1

2 **Section 9.** Section 15-30-111, MCA, is amended to read:

3 **"15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal adjusted gross
4 income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the
5 following:

6 (a) (i) interest received on obligations of another state or territory or county, municipality, district, or other
7 political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana
8 under federal law;

9 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
10 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

11 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a
12 reduction of Montana income tax liability;

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

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

16 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the
17 amount recovered reduced the taxpayer's Montana income tax in the year deducted;

18 (f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of
19 the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution
20 of the same estate or trust for the same tax period; and

21 (g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after
22 December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted
23 gross income.

24 (2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not
25 include the following, which are exempt from taxation under this chapter:

26 (a) (i) all interest income from obligations of the United States government, the state of Montana, or a
27 county, municipality, district, or other political subdivision of the state and any other interest income that is exempt
28 from taxation by Montana under federal law;

29 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
30 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

- 1 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including
2 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;
- 3 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income
4 received as defined in 15-30-101;
- 5 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:
- 6 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total
7 amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in
8 excess of \$30,000 as shown on the taxpayer's return;
- 9 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity
10 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in
11 subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000
12 as shown on their joint return;
- 13 (d) all Montana income tax refunds or tax refund credits;
- 14 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);
- 15 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section
16 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January
17 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage,
18 or lodging;
- 19 (g) all benefits received under the workers' compensation laws;
- 20 (h) all health insurance premiums paid by an employer for an employee if attributed as income to the
21 employee under federal law;
- 22 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a
23 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";
- 24 (j) principal and income in a medical care savings account established in accordance with 15-61-201
25 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a
26 dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;
- 27 (k) principal and income in a first-time home buyer savings account established in accordance with
28 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase
29 of a single-family residence;
- 30 (l) contributions withdrawn from a family education savings account or earnings withdrawn from a family

1 education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated
2 beneficiary;

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

5 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of
6 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution
7 of the same estate or trust for the same tax period;

8 (o) deposits, not exceeding the amount set forth in 15-30-603, deposited in a Montana farm and ranch
9 risk management account, as provided in 15-30-601 through 15-30-605, in any tax year for which a deduction
10 is not provided for federal income tax purposes;

11 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant
12 to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and
13 taxpayer meet the filing requirements in 15-30-142.

14 (q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or
15 withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303; ~~and~~

16 (r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and

17 (s) the amount of a scholarship awarded to an eligible student or for student transportation by a student
18 scholarship organization pursuant to [sections 1 through 8].

19 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall
20 include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as
21 provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election
22 is effective.

23 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business
24 deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and
25 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and
26 salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries
27 were used to compute the credit. In the case of a partnership or small business corporation, the deduction must
28 be made to determine the amount of income or loss of the partnership or small business corporation.

29 (5) Married taxpayers filing a joint federal return who are required to include part of their social security
30 benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal

1 base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement
2 benefits when they file separate Montana income tax returns. The federal base must be split equally on the
3 Montana return.

4 (6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section
5 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may
6 claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital
7 loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss
8 must be split equally on each return.

9 (7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and
10 who file separate Montana income tax returns are not required to recompute allowable passive losses according
11 to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal
12 Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must
13 be shown on that spouse's return; otherwise, the loss must be split equally on each return.

14 (8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a
15 deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C.
16 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is
17 allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

18 (9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a
19 qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate
20 Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return.
21 The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted
22 gross income.

23 (b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and
24 related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana
25 income tax returns may claim the same amount of the deduction that is allowed on the federal return. The
26 deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross
27 income.

28 (10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end
29 of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income
30 up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is

1 absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the
2 excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the
3 taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the
4 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted
5 gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage
6 in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting
7 or expected to last at least 12 months.

8 (11) An individual who contributes to one or more accounts established under the Montana family
9 education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the
10 contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for
11 the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made
12 by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection
13 applies only with respect to contributions to an account of which the account owner, as defined in 15-62-103, is
14 the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a
15 Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions
16 that reduced adjusted gross income.

17 (12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection
18 (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

19 (i) is a health care professional licensed in Montana as provided in Title 37;
20 (ii) is serving a significant portion of a designated geographic area, special population, or facility
21 population in a federally designated health professional shortage area, a medically underserved area or
22 population, or a federal nursing shortage county as determined by the secretary of health and human services
23 or by the governor;

24 (iii) has had a student loan incurred as a result of health-related education; and

25 (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment
26 program described in subsection (12)(b) as an incentive to practice in Montana.

27 (b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or
28 qualified private program. A qualified private loan repayment program includes a licensed health care facility, as
29 defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility
30 as a licensed health care professional. (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch.

1 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

2

3 NEW SECTION. Section 10. Codification instruction. (1) [Sections 1 through 6] are intended to be
4 codified as an integral part of Title 20, and the provisions of Title 20 apply to [sections 1 through 6].

5 (2) [Section 7] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions
6 of Title 15, chapter 30, apply to [section 7].

7 (3) [Section 8] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions
8 of Title 15, chapter 31, apply to [section 8].

9

10 NEW SECTION. Section 11. Effective date. [This act] is effective ~~on passage and approval~~ JANUARY
11 1, 2011.

12

13 NEW SECTION. Section 12. ~~Retroactive applicability~~ APPLICABILITY. [This act] applies ~~retroactively,~~
14 ~~within the meaning of 1-2-109,~~ to tax years beginning after December 31, ~~2008~~ 2010.

15

16 NEW SECTION. SECTION 13. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 2020.

17

- END -