

HOUSE BILL NO. 533

INTRODUCED BY E. STAFMAN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO TAX CREDIT SCHOLARSHIPS; PROHIBITING QUALIFIED EDUCATION PROVIDERS ELIGIBLE TO RECEIVE TAX-BENEFITED SCHOLARSHIPS FROM PROMOTING CERTAIN VIEWPOINTS RELATED TO RACE, RELIGION, OR CULTURE; REQUIRING STUDENT SCHOLARSHIP ORGANIZATIONS TO ENSURE COMPLIANCE WITH STATUTORY REQUIREMENTS OF QUALIFIED EDUCATION PROVIDERS; AMENDING SECTIONS 15-30-3102 AND 15-30-3103, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

**Section 1.** Section 15-30-3102, MCA, is amended to read:

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

- (1) "Department" means the department of revenue provided for in 2-15-1301.
- (2) "Donation" means a gift of cash.
- (3) "Eligible student" means a student who is a Montana resident and who is 5 years of age or older on or before September 10 of the year of attendance and has not yet reached 19 years of age.
- (4) "Innovative educational program" includes any of the following:
  - (a) transformational learning as defined in 20-7-1602;
  - (b) advanced opportunity as defined in 20-7-1503;
  - (c) any program, service, instructional methodology, or adaptive equipment used to expand opportunity for a child with a disability as defined in 20-7-401;
  - (d) any courses provided through work-based learning partnerships or for postsecondary credit or career certification; and
  - (e) technology enhancements, including but not limited to any expenditure incurred for purposes specified in 20-9-533.
- (5) "Partnership" has the meaning provided in 15-30-2101.

- 1 (6) "Pass-through entity" has the meaning provided in 15-30-2101.
- 2 (7) "Qualified education provider" means an education provider that:
- 3 (a) is not a public school;
- 4 (b) (i) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional,
- 5 or national accreditation organization; or
- 6 (ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in
- 7 writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;
- 8 (c) is not a home school as referred to in 20-5-102(2)(e);
- 9 (d) satisfies the health and safety requirements prescribed by law for private schools in this state;
- 10 ~~and~~
- 11 (e) does not, as part of the provider's instruction, curriculum, or school day:
- 12 (i) assert that an individual's moral character is necessarily determined by the individual's race,
- 13 religion, or culture; or
- 14 (ii) assert that one race, religion, or culture is inherently superior or inferior to another or that
- 15 persons of one race, religion, or culture are inherently superior or inferior to another; and
- 16 ~~(e)(f)~~ qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.
- 17 (8) "Small business corporation" has the meaning provided in 15-30-3301.
- 18 (9) "Student scholarship organization" means a charitable organization in this state that:
- 19 (a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code,
- 20 26 U.S.C. 501(c)(3);
- 21 (b) allocates not less than 90% of its annual revenue from donations eligible for the tax credit
- 22 under 15-30-3111 for scholarships to allow students to enroll with any qualified education provider; and
- 23 (c) provides educational scholarships to eligible students without limiting student access to only
- 24 one education provider.
- 25 (10) "Taxpayer" has the meaning provided in 15-30-2101. (Terminates December 31, 2029--secs.
- 26 20 and 24(6), Ch. 480, L. 2021.)"

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**Section 2.** Section 15-30-3103, MCA, is amended to read:

1           **"15-30-3103. (Temporary) Requirements for student scholarship organizations.** (1) A student  
2 scholarship organization:

3           (a) shall obligate at least 90% of its annual revenue from donations eligible for the tax credit under  
4 15-30-3111 for scholarships. For the purpose of this calculation:

5           (i) the cost of the annual fiscal review provided for in 15-30-3105(1)(b) may be paid out of the total  
6 donations before calculation of the 90% minimum obligation amount; and

7           (ii) all donations subject to the 90% minimum obligation amount that are received in 1 calendar  
8 year must be paid out in scholarships within the 3 calendar years following the donation.

9           (b) may not restrict or reserve scholarships for use at a particular education provider or any  
10 particular type of education provider and shall allow an eligible student to enroll with any qualified education  
11 provider of the parents' or legal guardian's choice;

12           (c) shall provide scholarships to eligible students to attend instruction offered by a qualified  
13 education provider;

14           (d) may not provide a scholarship to an eligible student for an academic year that exceeds the per-  
15 pupil average of total public school expenditures calculated in 20-9-570;

16           (e) shall maintain separate accounts for scholarship funds and operating funds;

17           (f) may transfer funds to another student scholarship organization;

18           (g) shall maintain an application process under which scholarship applications are accepted,  
19 reviewed, approved, and denied; ~~and~~

20           (h) shall ensure that a qualified education provider meets all requirements provided in law; and

21           ~~(h)(i)~~ shall comply with payment and reporting requirements in accordance with 15-30-3104 and 15-  
22 30-3105.

23           (2) An organization that fails to satisfy the conditions of this section is subject to termination as  
24 provided in 15-30-3113. (Terminates December 31, 2029--secs. 20 and 24(6), Ch. 480, L. 2021.)"

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26           NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2023.

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28           NEW SECTION. Section 4. Termination. [Sections 1 and 2] terminate December 31, 2029.

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