

BEFORE THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF INTERIM COMMITTEE
Rules I through III pertaining to tax	)	POLL OF THE LEGISLATURE ON
credits for contributions to qualified	)	PROPOSED RULE ACTION BY THE
education providers and student	)	DEPARTMENT OF REVENUE
scholarship organizations	)	

TO: All Concerned Persons

1. On October 15, 2015, the Department of Revenue published MAR Notice No. 42-2-939 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 1682 of the 2015 Montana Administrative Register, Issue Number 19.

2. Section 2-4-403, MCA, requires the interim committee that has subject matter jurisdiction over an agency to conduct a poll of the members of the Legislature when 20 or more legislators object to a proposed rule. As of October 31, 2015, the Legislative Services Division had received 20 written objections to the Department of Revenue's proposed New Rule I in MAR 42-2-939, which falls under the jurisdiction of the Revenue and Transportation Interim Committee under section 5-5-227, MCA. Further written objections were received after October 31, 2015.

3. The Revenue and Transportation Interim Committee conducted a poll of the members of the Legislature starting on November 10, 2015, and ending on November 24, 2015, at 5:00 p.m. The question raised in the poll was as follows:

Proposed Rule I in MAR 42-2-939 (Qualified Education Provider)

\_\_\_\_\_ The proposed rule IS CONSISTENT WITH legislative intent.

\_\_\_\_\_ The proposed rule IS CONTRARY TO legislative intent.

4. As provided in 2-4-403, MCA, the Department of Revenue was given an opportunity to present a written justification for proposed New Rule I and the written justification was provided with the polling materials.

5. Section 2-4-404, MCA, provides that the results of an interim committee poll must be admissible in any court proceeding involving the validity of the proposed rule. It provides further that if a majority of the members of both houses finds that the proposed rule or adopted rule is contrary to the intent of the Legislature, the proposed rule or adopted rule must be conclusively presumed to be contrary to the legislative intent in any court proceeding involving its validity.

6. The vote of the Senate on proposed Rule I in MAR 42-2-939 is as follows:

**15** Senators voted the proposed rule IS CONSISTENT WITH legislative intent; and

**29** Senators voted the proposed rule IS CONTRARY TO legislative intent.

7. The vote of the House of Representatives on proposed Rule I in MAR 42-2-939 is as follows:

**34** Representatives voted the proposed rule IS CONSISTENT WITH legislative intent; and

**58** Representatives voted the proposed rule IS CONTRARY TO legislative intent.

8. The poll materials, vote summary, and ballots are available by contacting the Legislative Services Division, P.O. Box 201706, Room 110, State Capitol, 1301 East Sixth Avenue, Helena, MT 59620-1706; telephone (406) 444-3064 or fax (406) 444-3036. Alternatively, the poll materials that were received by the members of the Legislature are available on the Revenue and Transportation Interim Committee website: <http://leg.mt.gov/css/Committees/Interim/2015-2016/Revenue-and-Transportation/>.

9. Section 2-4-306(3), MCA, requires the results of this poll to be published with MAR 42-2-939 if proposed New Rule I is adopted by the Department of Revenue.

/s/ [type name]  
Senator Fred Thomas  
Chairman

/s/ [type name]  
Representative Tom Jacobson  
Vice Chairman

Certified to the Secretary of State [December ##, 2015].