

HOUSE BILL NO. 279

INTRODUCED BY S. BERGLEE, M. BINKLEY, J. CARLSON, J. FULLER, W. GALT, S. GIST, E. HILL, J. HINKLE, C. HINKLE, J. KASSMIER, C. KNUDSEN, R. KNUDSEN, W. MCKAMEY, B. MERCER, B. MITCHELL, T. MOORE, F. NAVE, M. NOLAND, J. READ, A. REGIER, V. RICCI, J. SCHILLINGER, K. SEEKINS-CROWE, D. SKEES, M. STROMSWOLD, J. TREBAS, B. TSCHIDA, S. VINTON, K. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE TAX CREDIT SCHOLARSHIP PROGRAM AND THE INNOVATIVE EDUCATIONAL PROGRAM; REMOVING THE ASSESSMENT REQUIREMENTS FOR QUALIFIED EDUCATION PROVIDERS; REVISING LIMITS ON SCHOLARSHIP AMOUNTS; ALLOWING TAX CREDITS EARNED UNDER THE PROGRAMS TO BE CARRIED FORWARD; REVISING THE TAX CREDIT LIMIT AND THE AGGREGATE LIMIT OF CREDITS UNDER THE PROGRAMS; REVISING THE PREAPPROVAL PROCESS FOR THE TAX CREDIT SCHOLARSHIP PROGRAM; STREAMLINING THE DONATION PROCESS FOR THE INNOVATIVE EDUCATION PROGRAM; EXTENDING THE TERMINATION DATE FOR THE TAX CREDIT SCHOLARSHIP PROGRAM AND THE INNOVATIVE EDUCATIONAL PROGRAM; AMENDING SECTIONS 15-30-3101, 15-30-3102, 15-30-3103, 15-30-3104, 15-30-3106, 15-30-3110, ~~AND 15-30-3111~~, AND 15-30-3113, MCA; AMENDING SECTION 33, CHAPTER 457, LAWS OF 2015; REPEALING SECTIONS 20-9-901, 20-9-902, 20-9-903, 20-9-904, 20-9-905, AND 20-9-906, MCA; REPEALING SECTIONS 24, 25, 26, AND 27, CHAPTER 457, LAWS OF 2015; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES."

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

Section 1. Section 15-30-3101, MCA, is amended to read:

"15-30-3101. (Temporary) Purpose. Pursuant to 5-4-104, the legislature finds that the purpose of student scholarship organizations is to provide parental and student choice in education with private ~~contributions~~ DONATIONS through tax replacement programs. ~~The tax credit for taxpayer donations under this~~

1 part must be administered in compliance with Article V, section 11(5), and Article X, section 6, of the Montana
 2 constitution. (Terminates December 31, 2023 ~~2026 2029~~ sec. 33, Ch. 457, L. 2015.)"

3

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

5 **"15-30-3102. (Temporary) Definitions.** As used in this part, the following definitions apply:

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

7 ~~(2)~~ "DONATION" MEANS A GIFT OF CASH.

8 ~~(2)(3)~~ "Eligible student" means a student who is a Montana resident and who is 5 years of age or
 9 older on or before September 10 of the year of attendance and has not yet reached 19 years of age.

10 ~~(3)~~ "Geographic region" has the meaning provided in 20-9-903.

11 ~~(4)~~ "Large district" has the meaning provided in 20-9-903.

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
 18 CREDIT OR CAREER CERTIFICATION; AND

19 (E) TECHNOLOGY ENHANCEMENTS, INCLUDING BUT NOT LIMITED TO ANY EXPENDITURE INCURRED FOR
 20 PURPOSES SPECIFIED IN 20-9-533.

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

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

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

24 (a) is not a public school;

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

27 (ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in writing
 28 at the time of enrollment that the provider is not accredited and is not seeking accreditation;

1 (c) is not a home school as referred to in 20-5-102(2)(e);
 2 ~~(d) administers a nationally recognized standardized assessment test or criterion-referenced test and:~~
 3 ~~(i) makes the results available to the child's parents or legal guardian; and~~
 4 ~~(ii) administers the test for all 8th grade and 11th grade students and provides the overall scores on a~~
 5 ~~publicly accessible private website or provides the composite results of the test to the office of public instruction~~
 6 ~~for posting on its website;~~

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

8 and

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

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

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

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

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

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

18 (10) "Taxpayer" has the meaning provided in 15-30-2101. (Terminates December 31, ~~2023~~ ~~2026~~ ~~2029-~~
 19 ~~sec. 33, Ch. 457, L. 2015.~~)"

20

21 **Section 3.** Section 15-30-3103, MCA, is amended to read:

22 **"15-30-3103. (Temporary) Requirements for student scholarship organizations.** (1) A student
 23 scholarship organization:

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

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

28 (ii) all ~~contributions~~ DONATIONS subject to the 90% minimum obligation amount that are received in 1

1 calendar year must be paid out in scholarships within the 3 calendar years following the ~~contribution~~ DONATION.

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

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

7 (d) may not provide a scholarship to an eligible student for an academic year that exceeds 50% of the
8 per-pupil average of total public school expenditures calculated in 20-9-570;

9 ~~(e) shall ensure that the organization's average scholarship for an academic year does not exceed~~
10 ~~30% of the per-pupil average of total public school expenditures calculated in 20-9-570;~~

11 ~~(f)~~(e) shall maintain separate accounts for scholarship funds and operating funds;

12 ~~(g)~~(f) may transfer funds to another student scholarship organization;

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

15 ~~(i)~~(h) shall comply with payment and reporting requirements in accordance with 15-30-3104 and 15-
16 30-3105.

17 (2) An organization that fails to satisfy the conditions of this section is subject to termination as
18 provided in 15-30-3113. (Terminates December 31, 2023 ~~2026~~ ~~2029~~—sec. 33, Ch. 457, L. 2015.)"

19

20 **Section 4.** Section 15-30-3104, MCA, is amended to read:

21 **"15-30-3104. (Temporary) Tuition payment limitation.** (1) A student scholarship organization shall
22 deliver the scholarship funds directly to the qualified education provider selected by the parents or legal
23 guardian of the child to whom the scholarship was awarded. The qualified education provider shall immediately
24 notify the parents or legal guardian that the payment was received.

25 (2) A parent or legal guardian of an eligible student may not accept one or more scholarship awards
26 from a student scholarship organization for an eligible student if the total amount of the awards exceeds 50% of
27 the per-pupil average of total public school expenditures calculated in 20-9-570. This limitation applies to each
28 eligible student of a parent or legal guardian. (Terminates December 31, 2023 ~~2026~~ ~~2029~~—sec. 33, Ch. 457, L.

1 2015.)"

2

3 **Section 5.** Section 15-30-3106, MCA, is amended to read:

4 **"15-30-3106. (Temporary) Student scholarship organizations -- listing on website.** ~~(4)~~The
5 department shall maintain on its website a hyperlink to a current list of all:

6 ~~(a)(1)~~ student scholarship organizations that have provided notice pursuant to 15-30-3105(1)(a); and

7 ~~(b)(2)~~ qualified education providers that accepted scholarship funds from a student scholarship
8 organization.

9 ~~(2) The list must include:~~

10 ~~(a) a statistical compilation of the information received from the student scholarship organizations;~~

11 and

12 ~~(b) a hyperlink to the qualified education provider's overall testing scores contained on a publicly~~

13 ~~accessible private website or to the office of public instruction's website pursuant to 15-30-3102(7)(d)(ii).~~

14 (Terminates December 31, 2023 ~~2026 2029~~--sec. 33, Ch. 457, L. 2015.)"

15

16 **Section 6.** Section 15-30-3110, MCA, is amended to read:

17 **"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --**

18 **innovative educational program.** (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a

19 credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account

20 ~~provided for in 20-9-905~~ A SCHOOL DISTRICT for the purpose of providing supplemental funding to public schools

21 THE SCHOOL DISTRICT for innovative educational programs and technology deficiencies. ~~The taxpayer may direct~~

22 ~~the donation to a geographic region or a large district as provided in 20-9-904 (2)(b).~~ The amount of the credit

23 allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000 ~~\$150.~~ A DISTRICT SHALL DEPOSIT A

24 DONATION MADE FOR AN INNOVATIVE EDUCATIONAL PROGRAM INTO THE DISTRICT'S MISCELLANEOUS PROGRAMS FUND

25 AND SHALL LIMIT THE EXPENDITURE OF THE DONATION TO EXPENDITURES FOR INNOVATIVE EDUCATIONAL PROGRAMS OF

26 THE DISTRICT.

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

28 through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the

1 same proportion as used to report the entity's income or loss.

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

5 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may
6 be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried first
7 to the earliest tax year in which the credit may be applied and then to each succeeding tax year. THERE IS NO
8 CARRYBACK OR CARRYFORWARD OF THE CREDIT PERMITTED UNDER THIS SECTION, AND THE CREDIT MUST BE APPLIED IN
9 THE YEAR THE DONATION IS MADE, AS DETERMINED BY THE TAXPAYER'S ACCOUNTING METHOD.

10 ~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
11 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

12 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is ~~\$3~~ \$1 million per year
13 beginning in tax year 2016 2021 2022 AND \$2 MILLION PER YEAR IN TAX YEAR 2022 2023 AND SUBSEQUENT TAX
14 YEARS EXCEPT AS PROVIDED IN THIS SUBSECTION (4)(A).

15 (ii) Beginning in ~~2017, by August 1 202 2~~ 2023, by December 31 of each year, the department shall
16 determine if ~~\$3 million or the 80% of the~~ aggregate limit provided for in subsection ~~(5)(a)(iii) (4)(a)(iii)~~ in
17 donations was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits
18 allowed must be increased by ~~40%~~ 20% for the 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 ~~(5)(a)(ii) (4)(a)(ii)~~.

22 ~~(b) The department shall approve the amount of donations for taxpayers on a first-come, first-served~~
23 ~~basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer~~
24 ~~makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be~~
25 ~~processed without regard to the credit.~~

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

28 ~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer

1 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)
2 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

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

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

6 ~~(7)(6) After consultation with the superintendent of public instruction, the department may develop an~~
7 ~~internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax~~
8 ~~credit before making a donation. (A) ON RECEIVING A DONATION UNDER THIS PART, A SCHOOL DISTRICT SHALL SEEK~~
9 ~~PREAPPROVAL, IN A MANNER PRESCRIBED BY THE DEPARTMENT, THAT THE AMOUNT OF TAX CREDIT SOUGHT BY THE~~
10 ~~TAXPAYER IS AVAILABLE UNDER THE AGGREGATE LIMIT UNDER SUBSECTION (4).~~

11 (B) ON PREAPPROVAL BY THE DEPARTMENT, A SCHOOL DISTRICT SHALL ISSUE A RECEIPT, IN A FORM
12 PRESCRIBED BY THE DEPARTMENT, TO EACH CONTRIBUTING TAXPAYER INDICATING THE VALUE OF THE DONATION
13 RECEIVED AND PREAPPROVAL OF THE TAX CREDIT.

14 (C) A TAXPAYER SHALL PROVIDE A COPY OF THE RECEIPT WHEN CLAIMING THE TAX CREDIT. (Terminates
15 December 31, 2023 ~~2026 2029~~ --sec. 33, Ch. 457, L. 2015.)"

16

17 **SECTION 7. SECTION 15-30-3110, MCA, IS AMENDED TO READ:**

18 **"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --**

19 **innovative educational program.** (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a
20 credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account
21 provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative
22 educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic
23 region or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount
24 of the donation, not to exceed ~~\$150~~ \$200,000.

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

28 (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust

1 may be attributed to each beneficiary of the estate or trust in the same proportion used to report the
 2 beneficiary's income from the estate or trust for Montana income tax purposes.

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

6 ~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
 7 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

8 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
 9 tax year 2016.

10 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
 11 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department.
 12 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the
 13 succeeding tax years.

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

17 (b) The department shall approve the amount of donations for taxpayers on a first-come, first-served
 18 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer
 19 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
 20 processed without regard to the credit.

21 ~~(6)(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 ~~(7)(6)~~ After consultation with the superintendent of public instruction, the department may develop an
 28 internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax

1 credit before making a donation. (Terminates December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

2

3 **SECTION 8. SECTION 15-30-3110, MCA, IS AMENDED TO READ:**

4 **"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --**

5 **innovative educational program.** (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a
6 credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account
7 provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative
8 educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic
9 region or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount
10 of the donation, not to exceed ~~\$150~~ \$200,000.

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

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

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

20 ~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
21 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

22 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
23 tax year 2016.

24 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
25 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department.
26 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the
27 succeeding tax years.

28 (iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the

1 base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of
2 subsection ~~(5)(a)(ii)~~ (4)(a)(ii).

3 (b) The department shall approve the amount of donations for taxpayers on a first-come, first-served
4 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer
5 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
6 processed without regard to the credit.

7 ~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer
8 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)
9 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

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

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

13 ~~(7)(6)~~ After consultation with the superintendent of public instruction, the department may develop an
14 internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax
15 credit before making a donation. (Terminates December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

16

17 **SECTION 9. SECTION 15-30-3110, MCA, IS AMENDED TO READ:**

18 **"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --**
19 **innovative educational program.** (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a
20 credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account
21 provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative
22 educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic
23 region or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount
24 of the donation, not to exceed ~~\$150~~ \$200,000.

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

28 (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust

1 may be attributed to each beneficiary of the estate or trust in the same proportion used to report the
2 beneficiary's income from the estate or trust for Montana income tax purposes.

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

6 ~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
7 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

8 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
9 tax year 2016.

10 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
11 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department.
12 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the
13 succeeding tax years.

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

17 (b) The department shall approve the amount of donations for taxpayers on a first-come, first-served
18 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer
19 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
20 processed without regard to the credit.

21 ~~(6)(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 ~~(7)(6)~~ After consultation with the superintendent of public instruction, the department may develop an
28 internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax

1 credit before making a donation. (Terminates December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

2

3 **SECTION 10. SECTION 15-30-3110, MCA, IS AMENDED TO READ:**

4 **"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --**

5 **innovative educational program.** (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a
6 credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account
7 provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative
8 educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic
9 region or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount
10 of the donation, not to exceed ~~\$150~~ \$200,000.

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

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

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

20 ~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
21 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

22 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
23 tax year 2016.

24 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
25 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department.
26 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the
27 succeeding tax years.

28 (iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the

1 base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of
 2 subsection ~~(5)(a)(ii)~~ (4)(a)(ii).

3 (b) The department shall approve the amount of donations for taxpayers on a first-come, first-served
 4 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer
 5 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
 6 processed without regard to the credit.

7 ~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer
 8 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)
 9 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

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

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

13 ~~(7)(6)~~ After consultation with the superintendent of public instruction, the department may develop an
 14 internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax
 15 credit before making a donation. (Terminates December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

16

17 **SECTION 11. SECTION 15-30-3110, MCA, IS AMENDED TO READ:**

18 **"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --**

19 **innovative educational program.** (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a
 20 credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account
 21 provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative
 22 educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic
 23 region or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount
 24 of the donation, not to exceed ~~\$150~~ \$200,000.

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

28 (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust

1 may be attributed to each beneficiary of the estate or trust in the same proportion used to report the
2 beneficiary's income from the estate or trust for Montana income tax purposes.

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

6 ~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
7 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

8 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
9 tax year 2016.

10 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
11 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department.
12 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the
13 succeeding tax years.

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

17 (b) The department shall approve the amount of donations for taxpayers on a first-come, first-served
18 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer
19 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
20 processed without regard to the credit.

21 ~~(6)(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 ~~(7)(6)~~ After consultation with the superintendent of public instruction, the department may develop an
28 internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax

1 credit before making a donation. (Terminates December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

2

3 **Section 12.** Section 15-30-3111, MCA, is amended to read:

4 **"15-30-3111. (Temporary) Qualified education tax credit for ~~contributions~~ DONATIONS to student**
 5 **scholarship organizations.** (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit
 6 against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The
 7 donor may not direct or designate ~~contributions~~ DONATIONS to a parent, legal guardian, or specific qualified
 8 education provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~
 9 \$200,000 \$150.

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

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

16 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may
 17 be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried first
 18 to the earliest tax year in which the credit may be applied and then to each succeeding tax year. THERE IS NO
 19 CARRYBACK OR CARRYFORWARD OF THE CREDIT PERMITTED UNDER THIS SECTION, AND THE CREDIT MUST BE APPLIED IN
 20 THE YEAR THE DONATION IS MADE, AS DETERMINED BY THE TAXPAYER'S ACCOUNTING METHOD.

21 ~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
 22 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

23 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is ~~\$3~~ \$1 million per year
 24 beginning in tax year 2016 ~~2021~~ 2022 AND \$2 MILLION PER YEAR IN TAX YEAR ~~2022~~ 2023 AND SUBSEQUENT TAX
 25 YEARS EXCEPT AS PROVIDED IN THIS SUBSECTION (4)(A).

26 (ii) Beginning in ~~2017, by August 1~~ 2022 2023, by December 31 of each year, the department shall
 27 determine if ~~\$3 million or the 80% of the~~ aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in tax
 28 credits was preapproved by the department. If this condition is satisfied, the aggregate ~~amount~~ limit of tax

1 credits allowed must be increased by ~~40%~~20% for the succeeding tax years.

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

5 ~~(b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served
6 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer
7 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
8 processed without regard to the credit.~~

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

11 ~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer
12 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)
13 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

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

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

17 ~~(7)(6) The department may develop an internet-based registration system that provides donors with
18 the opportunity to obtain preapproval for a tax credit before making a contribution. (a) On receiving a donation
19 under this part, a student scholarship organization shall seek preapproval, in a manner prescribed by the
20 department, that the amount of tax credit sought by the taxpayer is available under the aggregate limit under
21 subsection (4).~~

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

25 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates December
26 31, 2023 ~~2026~~ ~~2029~~--sec. 33, Ch. 457, L. 2015.)"

27

28 **SECTION 13. SECTION 15-30-3111, MCA, IS AMENDED TO READ:**

1 **"15-30-3111. (Temporary) Qualified education tax credit for contributions to student**

2 **scholarship organizations.** (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit
3 against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The
4 donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education
5 provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~
6 \$200,000.

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

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

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

16 ~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
17 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

18 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
19 tax year 2016.

20 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
21 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in tax credits was preapproved by the department.
22 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the
23 succeeding tax years.

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

27 (b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served
28 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer

1 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
2 processed without regard to the credit.

3 ~~(6)~~(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer
4 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)
5 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

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

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

9 ~~(7)~~(6) The department may develop an internet-based registration system that provides donors with
10 the opportunity to obtain preapproval for a tax credit before making a contribution. (Terminates December 31,
11 ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

12

13 **SECTION 14. SECTION 15-30-3111, MCA, IS AMENDED TO READ:**

14 **"15-30-3111. (Temporary) Qualified education tax credit for contributions to student**

15 **scholarship organizations.** (1) Subject to subsection ~~(5)~~(4), a taxpayer or corporation is allowed a credit
16 against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The
17 donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education
18 provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~
19 \$200,000.

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

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

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

1 ~~(4)~~ There is no carryback or carryforward of the credit permitted under this section, and the credit
2 must be applied in the year the donation is made, as determined by the taxpayer's accounting method.

3 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
4 tax year 2016.

5 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
6 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in tax credits was preapproved by the department.
7 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the
8 succeeding tax years.

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

12 (b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served
13 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer
14 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
15 processed without regard to the credit.

16 ~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer
17 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)
18 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

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

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

22 ~~(7)(6)~~ The department may develop an internet-based registration system that provides donors with
23 the opportunity to obtain preapproval for a tax credit before making a contribution. (Terminates December 31,
24 ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

25

26 **SECTION 15. SECTION 15-30-3111, MCA, IS AMENDED TO READ:**

27 **"15-30-3111. (Temporary) Qualified education tax credit for contributions to student**

28 **scholarship organizations.** (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit

1 against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The
 2 donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education
 3 provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed \$150
 4 \$200,000.

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 contribution 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 may
 12 be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried first
 13 to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

14 ~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
 15 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

16 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
 17 tax year 2016.

18 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
 19 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in tax credits was preapproved by the department.
 20 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the
 21 succeeding tax years.

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

25 (b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served
 26 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer
 27 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
 28 processed without regard to the credit.

1 ~~(6)~~(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer
 2 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)
 3 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

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

7 ~~(7)~~(6) The department may develop an internet-based registration system that provides donors with
 8 the opportunity to obtain preapproval for a tax credit before making a contribution. (Terminates December 31,
 9 ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

10

11 **SECTION 16. SECTION 15-30-3111, MCA, IS AMENDED TO READ:**

12 "**15-30-3111. (Temporary) Qualified education tax credit for contributions to student**

13 **scholarship organizations.** (1) Subject to subsection ~~(5)~~(4), a taxpayer or corporation is allowed a credit
 14 against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The
 15 donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education
 16 provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$450~~
 17 \$200,000.

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

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

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

27 ~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
 28 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

1 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
2 tax year 2016.

3 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
4 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in tax credits was preapproved by the department.
5 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% 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 ~~(5)(a)(iii)~~ (4)(a)(ii).

10 (b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served
11 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer
12 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
13 processed without regard to the credit.

14 ~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer
15 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)
16 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

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

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

20 ~~(7)(6)~~ The department may develop an internet-based registration system that provides donors with
21 the opportunity to obtain preapproval for a tax credit before making a contribution. (Terminates December 31,
22 ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

23

24 **SECTION 17. SECTION 15-30-3111, MCA, IS AMENDED TO READ:**

25 "**15-30-3111. (Temporary) Qualified education tax credit for contributions to student**

26 **scholarship organizations.** (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit
27 against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The
28 donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education

1 provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed \$150
 2 \$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 contribution 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) There is no carryback or carryforward of the credit permitted under this section, and the credit~~
 13 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

14 ~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
 15 tax year 2016.

16 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
 17 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in tax credits was preapproved by the department.
 18 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the
 19 succeeding tax years.

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

23 (b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served
 24 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer
 25 makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be
 26 processed without regard to the credit.

27 ~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer
 28 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)

1 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

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

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

5 ~~(7)~~(6) The department may develop an internet-based registration system that provides donors with
6 the opportunity to obtain preapproval for a tax credit before making a contribution. (Terminates December 31,
7 2023 ~~2029~~ ~~sec. 33, Ch. 457, L. 2015.~~)"

8

9 **SECTION 18. SECTION 15-30-3113, MCA, IS AMENDED TO READ:**

10 **"15-30-3113. (Temporary) Review determination -- termination -- confidentiality.** (1) Subject to
11 subsection (7), the department is authorized to examine any books, papers, records, or memoranda relevant to
12 determining whether a student scholarship organization is in compliance with 15-30-3102, 15-30-3103, and 15-
13 30-3105.

14 (2) If a student scholarship organization is not in compliance, the department shall provide to the
15 organization written notice of the specific failures and the organization has 30 days from the date of the notice
16 to correct deficiencies. If the organization fails to correct all deficiencies, the department shall provide a final
17 written notice of the failure to the organization. The organization may appeal the department's determination of
18 failure to comply according to the uniform dispute review procedure in 15-1-211 within 30 days of the date of
19 the notice.

20 (3) (a) If a student scholarship organization does not seek review under 15-1-211 or if the dispute is
21 not resolved, the department shall issue a final department decision.

22 (b) The final department decision for a student scholarship organization must provide that the student
23 scholarship organization:

24 (i) will be removed from the list of eligible student scholarship organizations provided in 15-30-3106
25 and notified of the removal; and

26 (ii) shall within 15 calendar days of receipt of notice from the department of removal from the eligible
27 list cease all operations as a student scholarship organization and transfer all scholarship account funds to a
28 properly operating student scholarship organization.

1 (4) A student scholarship organization that receives a final department decision may seek review of
2 the decision from the state tax appeal board pursuant to 15-2-302.

3 (5) Either party aggrieved as a result of the decision of the state tax appeal board may seek judicial
4 review pursuant to 15-2-303.

5 (6) If a student scholarship organization files an appeal pursuant to this section, the organization may
6 continue to operate until the decision of the court is final.

7 (7) The identity of donors who make donations to ~~the educational improvement account provided for~~
8 ~~in 20-9-905~~ school districts to support innovative educational programs or donations to a student scholarship
9 organization is confidential tax information that is subject to the provisions of 15-30-2618. (Terminates
10 December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

11
12 **NEW SECTION. SECTION 19. REPEALER. THE FOLLOWING SECTIONS OF THE MONTANA CODE ANNOTATED**

13 ARE REPEALED:

14 20-9-901. (TEMPORARY) PURPOSE.

15 20-9-902. (TEMPORARY) DEFINITIONS.

16 20-9-903. (TEMPORARY) ESTABLISHMENT OF GEOGRAPHIC REGIONS AND LARGE DISTRICTS --
17 INNOVATIVE EDUCATIONAL PROGRAM.

18 20-9-904. (TEMPORARY) DISTRIBUTION OF SUPPLEMENTAL REVENUE TO PUBLIC SCHOOLS -- INNOVATIVE
19 EDUCATIONAL PROGRAM.

20 20-9-905. (TEMPORARY) EDUCATIONAL IMPROVEMENT ACCOUNT -- REVENUE ALLOCATED --
21 APPROPRIATIONS FROM ACCOUNT.

22 20-9-906. (TEMPORARY) RULEMAKING.

23

24 **Section 20.** Section 33, Chapter 457, Laws of 2015, is amended to read:

25 **"Section 33. Termination.** [This act] terminates December 31, ~~2023~~ 2026 ~~2029~~."

26

27 **NEW SECTION. SECTION 21. REPEALER. SECTIONS 24, 25, 26, AND 27, CHAPTER 457, LAWS OF 2015,**

28 ARE REPEALED.

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NEW SECTION. **Section 22. SEVERABILITY.** IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

NEW SECTION. **Section 23. Effective date -- APPLICABILITY.** (1) ~~[This act]~~ EXCEPT AS PROVIDED IN SUBSECTIONS (2) THROUGH (7), [THIS ACT] is effective ~~on passage and approval~~ JULY 1, 2021.

(2) [SECTIONS 1 THROUGH 6, 12, 18, 19, AND 21] ARE EFFECTIVE OCTOBER 1, 2021, AND APPLY TO THE INCOME TAX YEAR BEGINNING AFTER DECEMBER 31, 2021.

(3) [SECTIONS 7 AND 13] ARE EFFECTIVE JANUARY 1, 2022, AND APPLY TO THE INCOME TAX YEAR BEGINNING AFTER DECEMBER 31, 2021.

(4) [SECTIONS 8 AND 14] ARE EFFECTIVE JANUARY 1, 2023, AND APPLY TO THE INCOME TAX YEAR BEGINNING AFTER DECEMBER 31, 2022.

(5) [SECTIONS 9 AND 15] ARE EFFECTIVE JANUARY 1, 2024, AND APPLY TO THE INCOME TAX YEAR BEGINNING AFTER DECEMBER 31, 2023.

(6) [SECTIONS 10 AND 16] ARE EFFECTIVE JANUARY 1, 2025, AND APPLY TO THE INCOME TAX YEAR BEGINNING AFTER DECEMBER 31, 2024.

(7) [SECTIONS 11 AND 17] ARE EFFECTIVE JULY 1, 2025, AND APPLY TO INCOME TAX YEARS BEGINNING AFTER JUNE 30, 2025.

NEW SECTION. **Section 10. — Retroactive applicability.** ~~[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2020.~~

NEW SECTION. **Section 24. Termination.** (1) [SECTIONS 7 AND 13] TERMINATE DECEMBER 31, 2022.

(2) [SECTIONS 8 AND 14] TERMINATE DECEMBER 31, 2023.

(3) [SECTIONS 9 AND 15] TERMINATE DECEMBER 31, 2024.

(4) [SECTIONS 10 AND 16] TERMINATE DECEMBER 31, 2025.

1 (5) [SECTION 25] TERMINATES JANUARY 1, 2025.

2 (6) [Sections 1 through 7] [SECTIONS 1 THROUGH 6 AND 11, 12, 17, AND 18] terminate December 31,
 3 2026 2029.

4
 5 NEW SECTION. SECTION 25. CONTINGENT TERMINATION -- LEGISLATIVE INTENT -- SPECIFIC FINDINGS --
 6 REPORT TO LEGISLATIVE FINANCE COMMITTEE. (1) THE LEGISLATURE INTENDS TO PROVIDE THE TAX RELIEF PROVIDED
 7 BY [THIS ACT] WHILE ALSO PREVENTING THE LOSS OF FEDERAL FUNDS THAT ARE AVAILABLE TO THE STATE AS PART OF
 8 THE RECENTLY ENACTED AMERICAN RESCUE PLAN ACT, PUBLIC LAW 117-2. THE CONTINGENT TERMINATION
 9 PROVISIONS IN SUBSECTIONS (2) THROUGH (5) ARE LIMITED TO THE DURATION OF TIME ESTABLISHED BY EACH
 10 SUBSECTION AND ARE NECESSARY BASED ON THE LACK OF INFORMATION AVAILABLE TO THE LEGISLATURE FROM THE
 11 FEDERAL GOVERNMENT AT THE TIME OF ENACTMENT OF [THIS ACT].

12 (2) [SECTIONS 7 AND 13] TERMINATE ON THE DATE THAT THE BUDGET DIRECTOR PROVIDES THE
 13 CERTIFICATION PROVIDED FOR IN SUBSECTION (7). IN ORDER TO BE EFFECTIVE, THE CERTIFICATION MUST BE MADE IN
 14 CALENDAR YEAR 2021.

15 (3) [SECTIONS 8 AND 14] TERMINATE ON THE DATE THAT THE BUDGET DIRECTOR PROVIDES THE
 16 CERTIFICATION PROVIDED FOR IN SUBSECTION (7). IN ORDER TO BE EFFECTIVE, THE CERTIFICATION MUST BE MADE
 17 BETWEEN OCTOBER 1, 2022, AND DECEMBER 31, 2022.

18 (4) [SECTIONS 9 AND 15] TERMINATE ON THE DATE THAT THE BUDGET DIRECTOR PROVIDES THE
 19 CERTIFICATION PROVIDED FOR IN SUBSECTION (7). IN ORDER TO BE EFFECTIVE, THE CERTIFICATION MUST BE MADE
 20 BETWEEN OCTOBER 1, 2023, AND DECEMBER 31, 2023.

21 (5) [SECTIONS 10 AND 16] TERMINATE ON THE DATE THAT THE BUDGET DIRECTOR PROVIDES THE
 22 CERTIFICATION PROVIDED FOR IN SUBSECTION (7). IN ORDER TO BE EFFECTIVE, THE CERTIFICATION MUST BE MADE
 23 BETWEEN OCTOBER 1, 2024, AND DECEMBER 31, 2024.

24 (6) (A) THE BUDGET DIRECTOR SHALL CONTINUALLY EVALUATE WHETHER IMPLEMENTATION OF A SECTION OF
 25 [THIS ACT] WILL:

26 (i) RESULT IN A REDUCTION OF FUNDS FROM THE AMERICAN RESCUE PLAN ACT; OR

27 (ii) REQUIRE THE STATE TO REPAY OR REFUND TO THE FEDERAL GOVERNMENT PURSUANT TO THE AMERICAN
 28 RESCUE PLAN ACT.

1 (B) THE BUDGET DIRECTOR SHALL CONSIDER GUIDANCE FROM:

2 (I) THE FEDERAL GOVERNMENT ABOUT THE AMERICAN RESCUE PLAN ACT;

3 (II) COURT DECISIONS ABOUT THE AMERICAN RESCUE PLAN ACT;

4 (III) AMENDMENTS TO THE AMERICAN RESCUE PLAN ACT;

5 (IV) ANY INFORMATION PROVIDED BY THE ATTORNEY GENERAL; AND

6 (V) OTHER RELEVANT INFORMATION ABOUT THE AMERICAN RESCUE PLAN ACT.

7 (C) IF THE BUDGET DIRECTOR DETERMINES THAT THE IMPLEMENTATION OF A SECTION OF [THIS ACT] MAY

8 SATISFY THE CRITERIA IN SUBSECTION (6)(A) BASED ON THE GUIDANCE IN SUBSECTION (6)(B), THE BUDGET DIRECTOR

9 SHALL NOTIFY THE LEGISLATIVE FINANCE COMMITTEE OF THE PRELIMINARY DETERMINATION. THE BUDGET DIRECTOR'S

10 NOTIFICATION OF THE PRELIMINARY DETERMINATION MAY OCCUR AFTER JANUARY 1 BUT NO LATER THAN DECEMBER 10

11 OF EACH OF THE CALENDAR YEARS 2021, 2022, 2023, AND 2024. WITHIN 20 DAYS OF NOTIFICATION, THE LEGISLATIVE

12 FINANCE COMMITTEE SHALL PROVIDE THE BUDGET DIRECTOR WITH ANY RECOMMENDATIONS CONCERNING THE

13 PRELIMINARY DETERMINATION. THE BUDGET DIRECTOR SHALL CONSIDER ANY RECOMMENDATIONS OF THE LEGISLATIVE

14 FINANCE COMMITTEE.

15 (7) IF THE BUDGET DIRECTOR DETERMINES THAT THE IMPLEMENTATION OF A SECTION OF [THIS ACT] WOULD

16 MORE LIKELY THAN NOT SATISFY THE CRITERIA IN SUBSECTION (6)(A) BASED ON THE GUIDANCE IN SUBSECTION (6)(B)

17 AND THE RECOMMENDATIONS OF THE LEGISLATIVE FINANCE COMMITTEE IN SUBSECTION (6)(C), THE BUDGET DIRECTOR

18 SHALL PROVIDE CERTIFICATION IN WRITING TO THE LEGISLATIVE FINANCE COMMITTEE AND THE CODE COMMISSIONER OF

19 THE OCCURRENCE OF THE RELEVANT CONTINGENCY PROVIDED FOR IN SUBSECTIONS (2) THROUGH (5).

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- END -