

1 HOUSE BILL NO. 408

2 INTRODUCED BY S. VINTON, M. BINKLEY

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

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

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

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

8 SCHOOL DISTRICTS THAT RECEIVE ADVANCED OPPORTUNITY AID; REVISING THE DEFINITION OF

9 "INNOVATIVE EDUCATIONAL PROGRAM"; PROVIDING A STATUTORY APPROPRIATION; AMENDING

10 SECTIONS 15-30-3102, 15-30-3110, 15-30-3111, AND 17-7-502, MCA; AMENDING SECTIONS 23 AND 24,

11 CHAPTER 480, LAWS OF 2021; REPEALING SECTIONS 8, 9, 10, 14, 15, 16, AND 25, CHAPTER 480, LAWS

12 OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A

13 TERMINATION DATE."

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

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

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

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

20 public instruction.

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

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

23 30-3110(7).

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

25 (4) Money in the account is statutorily appropriated, as provided in 17-7-502, to the superintendent

26 of public instruction for distribution pursuant to 15-30-3110(7)(c) to school districts that receive advanced

27 opportunity aid under 20-7-1506(4). The funds must be distributed at the same time and in the same proportion

28 as the advanced opportunity aid distributions.

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Section 2. 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; and
 - (f) capital improvements and equipment necessary to support an innovative educational program.
 - (5) "Partnership" has the meaning provided in 15-30-2101.
 - (6) "Pass-through entity" has the meaning provided in 15-30-2101.
 - (7) "Qualified education provider" means an education provider that:
 - (a) is not a public school;
 - (b) ~~(i)~~ is accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or national accreditation organization; ~~or~~
 - ~~(ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;~~
 - (c) is not a home school as referred to in 20-5-102(2)(e);
 - (d) satisfies the health and safety requirements prescribed by law for private schools in this state;
- and

Amendment - 1st Reading-white - Requested by: Dave Fern - (H) Taxation

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0408.001.002

- 1 (e) qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.
- 2 (8) "Small business corporation" has the meaning provided in 15-30-3301.
- 3 (9) "Student scholarship organization" means a charitable organization in this state that:
- 4 (a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code,
- 5 26 U.S.C. 501(c)(3);
- 6 (b) allocates not less than 90% of its annual revenue from donations eligible for the tax credit
- 7 under 15-30-3111 for scholarships to allow students to enroll with any qualified education provider; and
- 8 (c) provides educational scholarships to eligible students without limiting student access to only
- 9 one education provider.
- 10 (10) "Taxpayer" has the meaning provided in 15-30-2101. (Terminates December 31, 2029--secs.
- 11 20 and 24(6), Ch. 480, L. 2021.)"

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

14 ~~" 15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --~~
15 ~~innovative educational program. (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit~~
16 ~~against the tax imposed by chapter 30 or 31 for donations made to a school district for the purpose of providing~~
17 ~~supplemental funding to the school district for innovative educational programs. The amount of the credit~~
18 ~~allowed is equal to the amount of the donation, not to exceed \$200,000. A district shall deposit a donation made~~
19 ~~for an innovative educational program into the district's miscellaneous programs fund and shall limit the~~
20 ~~expenditure of the donation to expenditures for innovative educational programs of the district.~~
21 ~~(2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-~~
22 ~~through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the~~
23 ~~same proportion as used to report the entity's income or loss.~~
24 ~~(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust~~
25 ~~may be attributed to each beneficiary of the estate or trust in the same proportion used to report the~~
26 ~~beneficiary's income from the estate or trust for Montana income tax purposes.~~
27 ~~(3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may~~
28 ~~be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried first~~