

1 HOUSE BILL NO. 408  
2 INTRODUCED BY S. VINTON, M. BINKLEY  
3

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 OR STUDENT  
7 SCHOLARSHIP ORGANIZATION MAY RETAIN; PROVIDING FOR REDISTRIBUTION OF FUNDS THAT  
8 EXCEED A SCHOOL DISTRICT'S LIMIT TO SCHOOL DISTRICTS THAT RECEIVE ADVANCED  
9 OPPORTUNITY AID; REVISING THE DEFINITION OF "INNOVATIVE EDUCATIONAL PROGRAM";  
10 PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-30-3102, 15-30-3110, 15-30-  
11 3111, AND 17-7-502, MCA; AMENDING SECTIONS 23 AND 24, CHAPTER 480, LAWS OF 2021;  
12 REPEALING SECTIONS 8, 9, 10, 14, 15, 16, AND 25, CHAPTER 480, LAWS OF 2021; AND PROVIDING AN  
13 IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."  
14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
16

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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**NEW SECTION. Section 2. Student scholarship organization program account -- revenue allocated -- appropriations from account.** (1) There is a student scholarship organization account in the state special revenue fund established in 17-2-102. The funds in the account must be administered by the superintendent of public instruction.

(2) The superintendent of public instruction shall deposit in the account student scholarship organization donations transferred from student scholarship organizations because the donations exceed the limits provided for in 15-30-3111(7).

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

(4) Money in the account is statutorily appropriated, as provided in 17-7-502, to the superintendent of public instruction for distribution pursuant to 15-30-3111(7)(c).

**Section 3.** 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.

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

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Drafter: Megan Moore, 406-444-4496

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

23

24 **Section 4.** Section 15-30-3110, MCA, is amended to read:

25 ~~" 15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --~~

26 ~~innovative educational program. (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit~~

27 ~~against the tax imposed by chapter 30 or 31 for donations made to a school district for the purpose of providing~~

28 ~~supplemental funding to the school district for innovative educational programs. The amount of the credit~~

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1 ~~allowed is equal to the amount of the donation, not to exceed \$200,000. A district shall deposit a donation made~~  
2 ~~for an innovative educational program into the district's miscellaneous programs fund and shall limit the~~  
3 ~~expenditure of the donation to expenditures for innovative educational programs of the district.~~

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

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

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

13 ~~(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$1 million per year in tax~~  
14 ~~year 2022 and \$2 million per year in tax year 2023 and subsequent tax years except as provided in this~~  
15 ~~subsection (4)(a).~~

16 ~~(ii) Beginning in 2023, by December 31 of each year, the department shall determine if 80% of the~~  
17 ~~aggregate limit provided for in subsection (4)(a)(iii) in donations was preapproved by the department. If this~~  
18 ~~condition is satisfied, the aggregate amount of tax credits allowed must be increased by 20% 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 (4)(a)(ii).~~

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

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

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

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

3 (6) ~~(a) On receiving a donation under this part, a school district shall seek preapproval, in a manner~~  
4 ~~prescribed by the department, that the amount of tax credit sought by the taxpayer is available under the~~  
5 ~~aggregate limit under subsection (4).~~

6 (b) ~~On preapproval by the department, a school district shall issue a receipt, in a form prescribed by~~  
7 ~~the department, to each contributing taxpayer indicating the value of the donation received and preapproval of~~  
8 ~~the tax credit.~~

9 (c) ~~A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates December~~  
10 ~~31, 2022, 2023, and 2024, on occurrence of contingency until June 30, 2025—secs. 23(7), 25, Ch. 480, L. 2021—~~  
11 ~~see compiler's comment.)~~

12 **15-30-3110. (Temporary—effective on occurrence of contingency) Credit for providing**  
13 **supplemental funding to public schools -- innovative educational program.** (1) Subject to subsection (4),  
14 a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to  
15 a school district for the purpose of providing supplemental funding to the school district for innovative  
16 educational programs. The amount of the credit allowed is equal to the amount of the donation, not to exceed  
17 \$150. A district shall deposit a donation made for an innovative educational program into the district's  
18 miscellaneous programs fund and shall limit the expenditure of the donation to expenditures for innovative  
19 educational programs of the district.

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

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

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Drafter: Megan Moore, 406-444-4496

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1           ~~(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$1 million per year in tax~~  
2 ~~year 2022 and \$2 million per year in tax year 2023 and subsequent tax years except as provided in this~~  
3 ~~subsection (4)(a).~~

4           ~~(ii) Beginning in 2023, by December 31 of each year, the department shall determine if 80% of the~~  
5 ~~aggregate limit provided for in subsection (4)(a)(iii) in donations was preapproved by the department. If this~~  
6 ~~condition is satisfied, the aggregate amount of tax credits allowed must be increased by 20% for the~~  
7 ~~succeeding tax years.~~

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

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

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

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

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

19           ~~(6) (a) On receiving a donation under this part, a school district shall seek preapproval, in a manner~~  
20 ~~prescribed by the department, that the amount of tax credit sought by the taxpayer is available under the~~  
21 ~~aggregate limit under subsection (4).~~

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

25           ~~(c) A taxpayer shall provide a copy of the receipt when claiming the tax credit.~~

26           **15-30-3110. (Temporary -- effective July 1, 2025) Credit for providing supplemental funding to**  
27 **public schools -- innovative educational program.** (1) Subject to subsection (4), a taxpayer or corporation is  
28 allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a school district for the

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1 purpose of providing supplemental funding to the school district for innovative educational programs. The  
2 amount of the credit allowed is equal to the amount of the donation, not to exceed \$200,000. ~~A district shall  
3 deposit a donation made for an innovative educational program into the district's miscellaneous programs fund  
4 and shall limit the expenditure of the donation to expenditures for innovative educational programs of the  
5 district.~~

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

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

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

15 (4) (a) (i) The aggregate amount of tax credits allowed under this section is ~~\$1 million per year in~~  
16 ~~tax year 2022 and \$2 million per year in tax year 2023~~ and \$5 million per year in tax year 2024 and subsequent  
17 tax years except as provided in this subsection (4)(a).

18 (ii) Beginning in ~~2023~~ 2024, by December 31 of each year, the department shall determine if 80%  
19 of the aggregate limit provided for in subsection (4)(a)(iii) in donations was preapproved by the department. If  
20 this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 20% 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 (4)(a)(ii).

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

27 (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)

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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 (6) (a) On receiving a donation under this part, a school district shall seek preapproval, in a  
6 manner prescribed by the department, that the amount of tax credit sought by the taxpayer is available under  
7 the aggregate limit under subsection (4).

8 (b) On preapproval by the department, a school district shall issue a receipt, in a form prescribed  
9 by the department, to each contributing taxpayer indicating the value of the donation received and preapproval  
10 of the tax credit.

11 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit.

12 (7) (a) A school district may not retain donations under this section that exceed:

13 (i) the greater of \$50,000 or 15% of the school district's maximum general fund budget; or

14 (ii) 20% of the total aggregate amount provided for in subsection (4).

15 (b) If a school district receives donations that exceed the amounts provided for in subsection  
16 (7)(a), the school district shall transfer the excess funds within 30 days to the superintendent of public  
17 instruction for deposit in the account provided for in [section 1].

18 (c) The superintendent of public instruction shall distribute funds received under subsection (7)(b)  
19 to school districts that receive advanced opportunity aid under 20-7-1506(4). A school district shall deposit  
20 funds received under this subsection (7)(c) into the school district flexibility fund and use them for out-of-pocket  
21 pupil costs provided for in 20-7-1506(5)(a).

22 (8) A school district shall deposit retained donations into the school district's miscellaneous  
23 programs fund and shall limit the expenditure of the donation to expenditures for innovative educational  
24 programs of the school district. (Terminates December 31, 2029--secs. 20, 24(6), Ch. 480, L. 2021.)"

25

26 **Section 5.** Section 15-30-3111, MCA, is amended to read:

27 **" ~~15-30-3111. (Temporary) Qualified education tax credit for donations to student scholarship~~**  
28 **organizations.** (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit against the tax



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

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

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

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

13 ~~(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$1 million per year in tax~~  
14 ~~year 2022 and \$2 million per year in tax year 2023 and subsequent tax years except as provided in this~~  
15 ~~subsection (4)(a).~~

16 ~~(ii) Beginning in 2023, by December 31 of each year, the department shall determine if 80% of the~~  
17 ~~aggregate limit provided for in subsection (4)(a)(iii) in tax credits was preapproved by the department. If this~~  
18 ~~condition is satisfied, the aggregate limit of tax credits allowed must be increased by 20% for the succeeding~~  
19 ~~tax years.~~

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

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

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

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

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

3 (6) ~~(a) On receiving a donation under this part, a student scholarship organization shall seek~~  
4 ~~preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is~~  
5 ~~available under the aggregate limit under subsection (4).~~

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

9 (c) ~~A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates December~~  
10 ~~31, 2022, 2023, and 2024 on occurrence of contingency until June 30, 2025—secs. 23(7), 25, Ch. 480, L. 2021—~~  
11 ~~see compiler's comment.)~~

12 **15-30-3111. (Temporary ~~effective on occurrence of contingency~~) Qualified education tax**  
13 **credit for donations to student scholarship organizations.** (1) Subject to subsection (4), a taxpayer or  
14 corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student  
15 scholarship organization. The donor may not direct or designate donations to a parent, legal guardian, or  
16 specific qualified education provider. The amount of the credit allowed is equal to the amount of the donation,  
17 not to exceed \$150.

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

27 (4) (a) (i) ~~The aggregate amount of tax credits allowed under this section is \$1 million per year in tax~~  
28 ~~year 2022 and \$2 million per year in tax year 2023 and subsequent tax years except as provided in this~~

1 subsection (4)(a).

2 (ii) ~~Beginning in 2023, by December 31 of each year, the department shall determine if 80% of the~~  
3 ~~aggregate limit provided for in subsection (4)(a)(iii) in tax credits was preapproved by the department. If this~~  
4 ~~condition is satisfied, the aggregate limit of tax credits allowed must be increased by 20% for the succeeding~~  
5 ~~tax years.~~

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

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 (5) ~~A credit is not allowed under this section with respect to any amount deducted by the taxpayer for~~  
12 ~~state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of~~  
13 ~~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 (6) (a) ~~On receiving a donation under this part, a student scholarship organization shall seek~~  
18 ~~preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is~~  
19 ~~available under the aggregate limit under subsection (4).~~

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

23 (c) ~~A taxpayer shall provide a copy of the receipt when claiming the tax credit.~~

24 **15-30-3111. (Temporary--effective July 1, 2025) Qualified education tax credit for donations to**  
25 **student scholarship organizations.** (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit  
26 against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The  
27 donor may not direct or designate donations to a parent, legal guardian, or specific qualified education provider.  
28 The amount of the credit allowed is equal to the amount of the donation, not to exceed \$200,000.

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

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

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

10 (4) (a) (i) The aggregate amount of tax credits allowed under this section is ~~\$1 million per year in~~  
11 ~~tax year 2022 and~~ \$2 million per year in tax year 2023 and \$5 million per year in tax year 2024 and subsequent  
12 tax years except as provided in this subsection (4)(a).

13 (ii) Beginning in ~~2023~~ 2024, by December 31 of each year, the department shall determine if 80%  
14 of the aggregate limit provided for in subsection (4)(a)(iii) in tax credits was preapproved by the department. If  
15 this condition is satisfied, the aggregate limit of tax credits allowed must be increased by 20% for the  
16 succeeding tax years.

17 (iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the  
18 aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of  
19 subsection (4)(a)(ii).

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

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

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

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

28 (6) (a) On receiving a donation under this part, a student scholarship organization shall seek

1 preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is  
2 available under the aggregate limit under subsection (4).

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

6 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit.

7 (7) (a) A student scholarship organization may not retain donations under this section that exceed  
8 10% of the total aggregate amount provided for in subsection (4).

9 (b) If a student scholarship organization receives donations that exceed the amount provided for in  
10 subsection (7)(a), the student scholarship organization shall transfer the excess funds within 30 days to the  
11 superintendent of public instruction for deposit in the account provided for in [section 2].

12 (c) The superintendent of public instruction shall distribute funds received under subsection (7)(b)  
13 equally to student scholarship organizations that registered in the tax year with the department of revenue to  
14 collect donations under this section. (Terminates December 31, 2029--secs. 20, 24(6), Ch. 480, L. 2021.)"

15

16 **Section 6.** Section 17-7-502, MCA, is amended to read:

17 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
18 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without  
19 the need for a biennial legislative appropriation or budget amendment.

20 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with  
21 both of the following provisions:

22 (a) The law containing the statutory authority must be listed in subsection (3).

23 (b) The law or portion of the law making a statutory appropriation must specifically state that a  
24 statutory appropriation is made as provided in this section.

25 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-  
26 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-  
27 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218;  
28 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-

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

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0408.001.004

1 70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-  
2 112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-  
3 506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; [section 1]; [section 2]; 20-9-534; 20-9-622; [20-15-328]; 20-  
4 26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-  
5 301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-  
6 12-213; 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-  
7 11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-  
8 308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-  
9 1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-  
10 25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

11 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
12 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
13 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
14 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined  
15 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have  
16 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the  
17 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement  
18 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410  
19 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental  
20 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on  
21 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
22 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,  
23 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;  
24 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,  
25 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.  
26 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,  
27 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-  
28 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates

1 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June  
 2 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to  
 3 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,  
 4 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion  
 5 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004  
 6 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,  
 7 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and  
 8 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

9

10 **Section 7.** Section 23, Chapter 480, Laws of 2021, is amended to read:

11 **"Section 23. Effective date -- applicability.** (1) Except as provided in subsections (2) through ~~(7)~~(4),  
 12 [this act] is effective July 1, 2021.

13 (2) [Sections 1 through 6, 12, 18, 19, and 21] are effective October 1, 2021, and apply to the  
 14 income tax year beginning after December 31, 2021.

15 (3) [Sections 7 and 13] are effective January 1, 2022, and apply to the income tax year beginning  
 16 after December 31, 2021.

17 (4) ~~[Sections 8 and 14]~~[Sections 11 and 17] are effective January 1, 2023, and apply to the  
 18 income tax year beginning after December 31, 2022.

19 ~~(5) [Sections 9 and 15] are effective January 1, 2024, and apply to the income tax year beginning~~  
 20 ~~after December 31, 2023.~~

21 ~~(6) [Sections 10 and 16] are effective January 1, 2025, and apply to the income tax year beginning~~  
 22 ~~after December 31, 2024.~~

23 ~~(7) [Sections 11 and 17] are effective July 1, 2025, and apply to income tax years beginning after~~  
 24 ~~June 30, 2025."~~

25

26 **Section 8.** Section 24, Chapter 480, Laws of 2021, is amended to read:

27 **"Section 24. Termination.** (1) [Sections 7 and 13] terminate December 31, 2022.

28 ~~(2) [Sections 8 and 14] terminate December 31, 2023.~~

