

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; REQUIRING THAT QUALIFIED
9 EDUCATION PROVIDERS ADMINISTER THE SAME ASSESSMENTS AS THOSE REQUIRED OF PUBLIC
10 SCHOOLS AND PROVIDE INFORMATION TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION;
11 REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO PUBLISH REPORT CARDS FOR
12 QUALIFIED EDUCATION PROVIDERS IN THE SAME MANNER AS PUBLIC SCHOOLS; REVISING
13 DEFINITIONS~~THE DEFINITION OF "INNOVATIVE EDUCATIONAL PROGRAM";~~ PROVIDING A STATUTORY
14 APPROPRIATION; AMENDING SECTIONS 15-30-3102, 15-30-3110, 15-30-3111, ~~AND~~ 17-7-502, AND 20-3-
15 106, MCA; AMENDING SECTIONS 23 AND 24, CHAPTER 480, LAWS OF 2021; REPEALING SECTIONS 8,
16 9, 10, 14, 15, 16, AND 25, CHAPTER 480, LAWS OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE
17 DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

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

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

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appropriations from account. (1) There is an innovative educational program 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.

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

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program donations transferred from school districts because the donations exceed the limits provided for in 15-30-3110(7).

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

1 (4) Money in the account is statutorily appropriated, as provided in 17-7-502, to the superintendent
2 of public instruction for distribution pursuant to 15-30-3110(7)(c) to school districts that receive advanced
3 opportunity aid under 20-7-1506(4). The funds must be distributed at the same time and in the same proportion
4 as the advanced opportunity aid distributions.

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

7 **"15-30-3102. (Temporary) Definitions.** As used in this part, the following definitions apply:

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

9 (2) "Donation" means a gift of cash.

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

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 credit or
18 career certification; ~~and~~

19 (e) technology enhancements, including but not limited to any expenditure incurred for purposes
20 specified in 20-9-533; and

21 (f) capital improvements and equipment necessary to support an innovative educational program.

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

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

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

25 (a) is not a public school;

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

28 (ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in

1 writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;

2 (c) is not a home school as referred to in 20-5-102(2)(e);

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

4 ~~and~~

5 (e) administers and pays for the same statewide assessments as those required of public schools
6 under the rules of the board of public education;

7 (f) provides to the superintendent of public instruction the information required to produce a
8 school-level report card displaying the same information as those required of Montana public schools under
9 federal law. The qualified education provider shall pay for any costs of accessing data systems of the office of
10 public instruction to meet the requirements of this subsection (7)(f).

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

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

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

14 (a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code,
15 26 U.S.C. 501(c)(3);

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

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

20 (10) "Taxpayer" has the meaning provided in 15-30-2101. (Terminates December 31, 2029--secs.
21 20 and 24(6), Ch. 480, L. 2021.)"

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

24 "~~15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --~~

25 ~~innovative educational program. (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 school district for the purpose of providing~~

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

28 ~~allowed is equal to the amount of the donation, not to exceed \$200,000. A district shall deposit a donation made~~

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Section 6. Section 20-3-106, MCA, is amended to read:

"20-3-106. Supervision of schools -- powers and duties. The superintendent of public instruction has the general supervision of the public schools and districts of the state and shall perform the following duties or acts in implementing and enforcing the provisions of this title:

- (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;
- (2) issue, renew, or deny teacher certification and emergency authorizations of employment;
- (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;
- (4) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;
- (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;
- (6) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-506;
- (7) establish a system of communication for calculating joint district revenue in accordance with the provisions of 20-9-151;
- (8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment in accordance with the approval and disbursement provisions of 20-9-166;
- (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
- (10) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;
- (11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance with the provisions of 20-9-313 and 20-9-314;

- 1 (12) distribute BASE aid and special education allowable cost payments in support of the BASE
- 2 funding program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and
- 3 20-9-366 through 20-9-369;
- 4 (13) provide for the uniform and equal provision of transportation by performing the duties
- 5 prescribed by the provisions of 20-10-112;
- 6 (14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-
- 7 603;
- 8 (15) authorize the use of federal money for the support of an interlocal cooperative agreement in
- 9 accordance with the provisions of 20-9-703 and 20-9-704;
- 10 (16) prescribe the form and contents of and approve or disapprove interstate contracts in
- 11 accordance with the provisions of 20-9-705;
- 12 (17) recommend standards of accreditation for all schools to the board of public education in
- 13 accordance with the provisions of 20-7-101;
- 14 (18) evaluate compliance with the accreditation standards and recommend accreditation status of
- 15 every school to the board of public education in accordance with the provisions of 20-7-102;
- 16 (19) collect and maintain a file of curriculum guides and assist schools with instructional programs in
- 17 accordance with the provisions of 20-7-113 and 20-7-114;
- 18 (20) establish and maintain a library of visual, aural, and other educational media in accordance
- 19 with the provisions of 20-7-201;
- 20 (21) license textbook dealers and initiate prosecution of textbook dealers violating the law in
- 21 accordance with the provisions of the textbooks part of this title;
- 22 (22) as the governing agent and executive officer of the state of Montana for K-12 career and
- 23 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of 20-7-
- 24 301;
- 25 (23) supervise and coordinate the conduct of special education in the state in accordance with the
- 26 provisions of 20-7-403;
- 27 (24) administer the traffic education program in accordance with the provisions of 20-7-502;
- 28 (25) administer the school food services program in accordance with the provisions of 20-10-201

1 through 20-10-203;

2 (26) review school building plans and specifications in accordance with the provisions of 20-6-622;

3 (27) provide schools with information and technical assistance for compliance with the student

4 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for

5 the board of public education and the legislature;

6 (28) upon request and in compliance with confidentiality requirements of state and federal law,

7 disclose to interested parties all school district student assessment data for a test required by the board of

8 public education;

9 (29) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-

10 9-369; ~~and~~

11 (30) produce and publish a school-level report card displaying the same information as those

12 required of Montana public schools under federal law for any qualified education provider receiving scholarship

13 funds from a student scholarship organization pursuant to 15-30-3104; and

14 ~~(30)~~(31) perform any other duty prescribed from time to time by this title, any other act of the

15 legislature, or the policies of the board of public education."

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

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

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

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

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

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

28 ~~(6) [Sections 10 and 16] are effective January 1, 2025, and apply to the income tax year beginning~~

1 after ~~December 31, 2024.~~

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

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

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

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

8 ~~(3) [Sections 9 and 15] terminate December 31, 2024.~~

9 ~~(4) [Sections 10 and 16] terminate December 31, 2025.~~

10 ~~(5) [Section 25] terminates January 1, 2025.~~

11 ~~(6)(2) [Sections 1 through 6 and 11, 12, 17, and 18] terminate December 31, 2029."~~

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13 **NEW SECTION. Section 9. Repealer.** Sections 8, 9, 10, 14, 15, 16, and 25, Chapter 480, Laws of
14 2021, are repealed.

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16 **NEW SECTION. Section 10. Codification instruction.** [Section 1] is intended to be codified as an
17 integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 1].

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19 **NEW SECTION. Section 11. Effective date.** [This act] is effective on passage and approval.

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21 **NEW SECTION. Section 12. Applicability.** [This act] applies to income tax years beginning after
22 December 31, 2023.

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24 **NEW SECTION. Section 13. Termination.** [Sections 1 through ~~5~~6] terminate December 31, 2029.

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