

1 HOUSE BILL NO. 23

2 INTRODUCED BY M. THANE

3 BY REQUEST OF THE REVENUE INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE AMOUNT OF THE CREDIT FOR THE
6 INNOVATIVE EDUCATIONAL PROGRAM CREDIT AND THE STUDENT SCHOLARSHIP ORGANIZATION
7 CREDIT; AMENDING SECTIONS 15-30-3110 AND 15-30-3111, MCA; AMENDING SECTIONS 23 AND 24,
8 CHAPTER 480, LAWS OF 2021; REPEALING SECTIONS 8, 9, 10, 14, 15, 16, AND 25, CHAPTER 480, LAWS
9 OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
10 DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 15-30-3110, MCA, is amended to read:

15 ~~"15-30-3110. —(Temporary) Credit for providing supplemental funding to public schools —~~
16 ~~innovative educational program. (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit~~
17 ~~against the tax imposed by chapter 30 or 31 for donations made to a school district for the purpose of providing~~
18 ~~supplemental funding to the school district for innovative educational programs. The amount of the credit~~
19 ~~allowed is equal to the amount of the donation, not to exceed \$200,000. A district shall deposit a donation made~~
20 ~~for an innovative educational program into the district's miscellaneous programs fund and shall limit the~~
21 ~~expenditure of the donation to expenditures for innovative educational programs of the district.~~

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

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

28 ~~(3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may~~

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

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

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

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

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

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

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

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

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

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

27 ~~(c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates December~~
 28 ~~31, 2022, 2023, and 2024, on occurrence of contingency until June 30, 2025 -- secs. 23(7), 25, Ch. 480, L. 2021-~~

1 ~~see compiler's comment.)~~

2 ~~**15-30-3110. (Temporary – effective on occurrence of contingency) Credit for providing**~~
 3 ~~**supplemental funding to public schools – innovative educational program.**~~ (1) Subject to subsection (4),
 4 a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to
 5 a school district for the purpose of providing supplemental funding to the school district for innovative
 6 educational programs. The amount of the credit allowed is equal to the amount of the donation, not to exceed
 7 \$150. A district shall deposit a donation made for an innovative educational program into the district's
 8 miscellaneous programs fund and shall limit the expenditure of the donation to expenditures for innovative
 9 educational programs of the district.

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 donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust~~
 14 ~~may be attributed to each beneficiary of the estate or trust in the same proportion used to report the~~
 15 ~~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. There is~~
 17 ~~no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the~~
 18 ~~year the donation is made, as determined by the taxpayer's accounting method.~~

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

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

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

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

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

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

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

16 **15-30-3110. (Temporary – effective July 1, 2025) Credit for providing supplemental funding to**
 17 **public schools – innovative educational program.** (1) Subject to subsection (4), a taxpayer or corporation is
 18 allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a school district for the
 19 purpose of providing supplemental funding to the school district for innovative educational programs. The
 20 amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$200,000~~ \$2,000. A district
 21 shall deposit a donation made for an innovative educational program into the district's miscellaneous programs
 22 fund and shall limit the expenditure of the donation to expenditures for innovative educational programs of the
 23 district.

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

27 (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust
 28 may be attributed to each beneficiary of the estate or trust in the same proportion used to report the

1 beneficiary's income from the estate or trust for Montana income tax purposes.

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

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

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

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

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

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

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

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

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

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

1 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates
2 December 31, 2029--secs. 20, 24(6), Ch. 480, L. 2021.)"

3

4 **Section 2.** Section 15-30-3111, MCA, is amended to read:

5 **~~"15-30-3111. (Temporary) Qualified education tax credit for donations to student scholarship~~**

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

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 donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust~~
14 ~~may be attributed to each beneficiary of the estate or trust in the same proportion used to report the~~
15 ~~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~~

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

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

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

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

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

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

15 ~~(c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates December~~
16 ~~31, 2022, 2023, and 2024 on occurrence of contingency until June 30, 2025--secs. 23(7), 25, Ch. 480, L. 2021--~~
17 ~~see compiler's comment.)~~

18 ~~**15-30-3111. (Temporary -- effective on occurrence of contingency) Qualified education tax**~~
19 ~~**credit for donations to student scholarship organizations.** (1) Subject to subsection (4), a taxpayer or~~
20 ~~corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student~~
21 ~~scholarship organization. The donor may not direct or designate donations to a parent, legal guardian, or~~
22 ~~specific qualified education provider. The amount of the credit allowed is equal to the amount of the donation,~~
23 ~~not to exceed \$150.~~

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

27 ~~(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust~~
28 ~~may be attributed to each beneficiary of the estate or trust in the same proportion used to report the~~

1 ~~beneficiary's income from the estate or trust for Montana income tax purposes.~~

2 ~~(3) The credit allowed under this section may not exceed the taxpayer's income tax liability. There is~~
3 ~~no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the~~
4 ~~year the donation is made, as determined by the taxpayer's accounting method.~~

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

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

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

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

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

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

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

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

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

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

2 **15-30-3111. (Temporary—effective July 1, 2025) Qualified education tax credit for donations to**
 3 **student scholarship organizations.** (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit
 4 against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The
 5 donor may not direct or designate donations to a parent, legal guardian, or specific qualified education provider.
 6 The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$200,000~~ \$2,000.

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

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

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

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

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

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

12 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates
13 December 31, 2029--secs. 20, 24(6), Ch. 480, L. 2021.)"

14

15 **Section 3.** Section 23, Chapter 480, Laws of 2021, is amended to read:

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

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

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

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

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

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

28 ~~(7) [Sections 11 and 17] are effective July 1, 2025, and apply to the income tax year beginning after~~

1 ~~June 30, 2025."~~

2

3 **Section 4.** Section 24, Chapter 480, Laws of 2021, is amended to read:

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

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

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

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

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

9 ~~(6)~~(2) [Sections 1 through 6 and 11, 12, 17, and 18] terminate December 31, 2029."

10

11 NEW SECTION. **Section 5. Repealer.** Sections 8, 9, 10, 14, 15, 16, and 25, Chapter 480, Laws of
12 2021, are repealed.

13

14 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

15

16 NEW SECTION. **Section 7. Retroactive applicability.** [This act] applies retroactively, within the
17 meaning of 1-2-109, to income tax years beginning after December 31, 2022.

18

- END -